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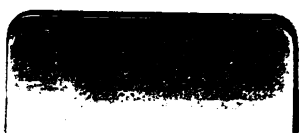
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SPECIAL LAWS
OF THE
STATE OF TEXAS

PASSED AT THE
REGULAR SESSION
OF THE
TWENTY-THIRD LEGISLATURE

CONVENED AT THE
CITY OF AUSTIN, JANUARY 10, 1893,

AND
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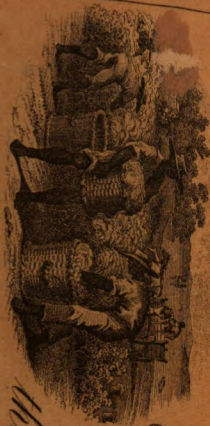
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Special Laws

23rd Legislature
1893 -

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SPECIAL LAWS OF TEXAS.

TWENTY-THIRD LEGISLATURE, 1893.

WACO WATER POWER AND ELECTRIC COMPANY.

CHAP. 1.—[H. B. No. 171.] An act to grant to the Waco Water Power and Electric Company the right to construct and maintain, and by necessary booms or otherwise to protect, and from time to time to raise a dam across the Brazos river, and to purchase, condemn and pay for lands, rights, and other property overflowed or injured thereby or necessary therefor.

Be it enacted by the Legislature of the State of Texas: That for and in consideration of the improvement of the Brazos river for navigation above the dam hereinafter mentioned, and in further consideration of the many advantages which will result to the public from such dam.

SECTION 1. There is hereby granted to the Waco Water Power and Electric Company the right to construct, to maintain, by booms or otherwise to protect, and from time to time to raise a dam of not less than fifteen feet head of water across the Brazos river at any point within five miles above the suspension bridge at Waco, McLennan County, Texas: *Provided*, that said dam shall be completed within a period of five years from the approval of this act, and a failure to so complete the same shall operate as a forfeiture of the rights herein granted, and the same shall at once revert to the State: *Provided further*, that nothing herein shall be construed to relinquish the right of the State to fix and regulate the tolls and charges.

SEC. 2. In consideration of the great expense to be incurred by said company in constructing said dam, the water power thereby created is hereby granted to said company, its successors, and assigns.

SEC. 3. All the land and riparian rights of the State of Texas in and adjacent to said river, including especially such rights in its bed, banks, waters, and current at and so far above said dam as the same are influenced thereby, shall be used and enjoyed and occupied by said company, its successors, and assigns, so long as said dam is maintained by said company, its successors, and assigns: *Provided, however*, that the State reserves the right to construct or empower the construction of locks and other passways in said dam in such manner as not to injure said company, its successors, or assigns.

SEC. 4. There is hereby granted to said company the right, during the erection of said dam, or thereafter, to construct locks and other passways in said dam, and until such constructions said company shall maintain, over or around said dam, practical means of transporting boats and other craft which may navigate said river, said company being hereby granted the right to charge reasonable tolls to defray the expenses of constructing, maintaining, and operating the said locks, passways, and means of transportation.

SEC. 5. There is hereby granted to said company, its successors, and assigns, the right and power to purchase, acquire, or condemn all lands, rights, and other property subject to be overflowed by or needed in constructing, maintaining, protecting, or raising said dam: *Provided, however,* that this right of condemnation shall not be construed to entitle any person to damages who would not otherwise have been entitled thereto.

SEC. 6. The law as it now is, or may be amended, prescribing the rights of and procedure by railroad companies in acquiring land and making compensation therefor shall apply to and govern such proceedings in acquiring land, rights, and other property, and making compensation therefor, under the power herein granted said company, its successors, and assigns.

SEC. 7. The great benefits to be derived by the public from said dam, and the influence of the approaching seasons upon the height of the water in said river, causes an imperative public necessity and emergency for the suspension of the reading of this bill on three several days in each house, and the rule requiring such reading is hereby suspended, and this law shall take effect immediately after its passage.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 14th day of February, A. D. 1893, but was not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect February 25, 1893.]

ROADS—CALDWELL COUNTY.

CHAP. 2.—[H. B. No. 109.] An act to create a more efficient road system in the county of Caldwell, and auxiliary thereto to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners court with regard thereto; to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county; and to provide adequate penalties for the violation of the provisions of this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the commissioners court of Caldwell county may appoint a road overseer for each commissioners precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

SEC. 2. The overseers appointed shall perform all of the duties required of overseers under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not to exceed two dollars per day for the time actually engaged.

SEC. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faith-

fully discharge all of the duties incumbent upon him as such overseer; that he will promptly make all reports required of him by this act or by the commissioners court, and that he will correctly disburse and account for all funds that may come into his hands, according to law and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

SEC. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer; and in case of vacancy from any cause, may fill the same for the unexpired term.

SEC. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind, placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk; and he shall be responsible for all such tools, teams, implements, and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

SEC. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides; and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct; but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done; and may require the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

SEC. 6. The commissioners court shall require all able bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as it may prescribe; and each convict so employed shall receive credit, first, upon the fine, and then upon the cost, of fifty cents per day for each day he may labor: *Provided*, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

SEC. 7. The commissioners court may, at any regular term, allow to the officers and witnesses in a convict case, where the convict is worked upon the roads, such portion of their lawful cost as it may determine, not to exceed in any case the following: County judge, \$2.50; county attorney, \$5.00, including commissions; county clerk and justice of the peace, \$2.00; sheriff and constable, \$2.50; witnesses, twenty-five per cent of their legal fees, which allowances shall be paid out of the road and bridge fund on the warrant of the county judge, when said fine and cost shall have been worked out by the convict, as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict in consideration of faith-

ful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

SEC. 8. The overseers may contract with any person subject to road duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: *Provided*, he shall not allow more than \$2.00 per day for any wagon and team, nor more than \$3.00 per day for wagon and team and driver.

SEC. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up and in order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all the duties as supervisor heretofore devolving upon the county commissioners; and the county commissioners of said county are hereby relieved from the duties prescribed by article 4390a of the Revised Civil Statutes.

SEC. 10. Every able bodied male person between the ages of twenty-one and forty-five years, resident in the county, except such persons as are exempt from road duty under the general laws of this State, shall be liable to labor on the public roads: *Provided*, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.

2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time, shall be discharged from all liability for the entire year, to end on December 31 of each year.

3. By producing to the overseer the certificate of a reputable practicing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.

4. By substituting wagons and teams suitable and satisfactory to the road overseer, as provided in section 8 of this act.

SEC. 11. Every insolvent poll tax payer, being a resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second Monday in February of every year, to furnish to the several overseers of the county the names of all defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each; for which ex officio service the collector shall be exempt from road duty. And it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax as herein provided, to report the same to the tax collector, who shall credit the party on the tax roll, and report the same in his regular reports to the commissioners court: *Provided*, that no fines or penalties shall be recovered of insolvent poll tax payers for failure to work out their poll tax under the provisions of this act.

SEC. 12. Each road overseer shall make his report, under oath, to the commissioners court, every six months, giving an itemized statement of all money belonging to the road fund which he has received, from whom received, and for what, and what disposition he has made of the same; the condition of all roads, bridges, culverts and drains; the numbers and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require; and may accompany said report with such suggestions as may seem to him pertinent in regard to the public roads and the duties of his office.

SEC. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof in a court of competent jurisdiction, shall be punished by fine of not less than ten nor more than one hundred dollars; such fine, when collected, to go into the road and bridge fund.

SEC. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damage to be paid, the county may proceed to condemn the same, in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond, either for cost or on appeal.

SEC. 15. This act shall be cumulative of all general laws of the State on the subject or roads and bridges and employment of county convicts not in conflict herewith; and where not otherwise provided herein such general laws shall apply, but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

SEC. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved March 8, A. D. 1893.

[NOTE.—The foregoing act takes effect ninety days from adjournment.]

DENISON—AMENDMENT TO CITY CHARTER.

CHAP. 3.—[S. B. No. 171.] An act to amend sections 12, 19, 23, 65, 145, 147, 149, 158, and 160 of an act entitled "An act to incorporate the city of Denison, in Grayson County, Texas, and to fix the boundaries thereof, and to provide for its government and the management of its affairs," passed March, 1891.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That sections 12, 19, 23, 65, 145, 147, 149, 158, and 160 of an act entitled, "An act to incorporate the city of Denison, in Grayson County, Texas, and to fix the boundaries thereof, and to provide for its government and the management of its affairs," shall hereafter read as follows:

Section 12. The presiding officer in each ward shall select three judges and four clerks, who, with the presiding officer, shall be managers of the election. The presiding officer and judges must be qualified voters in the city. The city council shall provide for their compensation, and shall define and regulate their duties and powers. The mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officer a writ of election; and every published notice of election shall state the officer or officers to be elected, the place where the election shall be held, and the name of the presiding officer thereat. In case the presiding officer so appointed is unable, fails, refuses, or neglects to act, or the mayor or the city council have failed to appoint such officer, or in case no appointed presiding officer appears to open the polls, the attending qualified voters may appoint such officer, who shall perform the duties and have the same powers as the first appointee. But in such case the managers, in their returns or otherwise, shall certify that the presiding officers failed to attend, or neglected to act, and that the person acting as such was duly elected by the electors present.

Section 19. The compensation of all officers shall be such as may be fixed by the city council. Such compensation of officers elected by the qualified voters shall be fixed not less than sixty days before each annual election at which such officers are elected, and the compensation of officers and employes elected or appointed by the city council shall be fixed by the city council electing or appointing such officers or employes on or before the first day of May of each year; and the pay of no city officer shall be increased or diminished during his term of office, and no city officer shall receive any extra pay during his term of office.

Section 23. The judicial power of the city of Denison shall be and the same is hereby vested in a court to be known as the Denison city court, to be presided over by a judge to be known as the city judge, which court is hereby created and established with criminal jurisdiction as follows: First, to try, hear, determine, and punish all offenses against the ordinances of the city of Denison of which the mayor's court formerly had jurisdiction. Second, to try, hear, determine, and punish all misdemeanors arising under the ordinances of said city, authorized by the provisions of this charter. All prosecutions shall be conducted in the name of the city of Denison.

Section 65. To control and regulate the carrying on of manufactories and works dangerous in causing or promoting fires, and to regulate the location of cotton presses, sheds, and other buildings dangerous on account of fire, and to control and regulate the location and use of steam engines in the city, and prescribe rules and regulations in relation thereto, as may seem best for the public safety and comfort.

Section 145. The city council shall have power by ordinance to provide for and cause a general sewer system to be constructed, maintained, and regulated in such manner and out of such material as the council may prescribe. Public sewers shall be established as the council may direct, and there may be extensions of branches of sewers already constructed, or

entirely new throughout, as may be deemed expedient. The city council may, if necessary, levy a tax on all taxable property in the entire city, to pay for the construction and repairs of such public sewers, which shall be called "a special sewer tax," and used solely for that purpose. No public sewer shall be constructed or run diagonally through private property without the consent of the owner, when it is, without injury to said sewer, practicable to construct it parallel with one of the exterior lines of said property. No public sewer shall be constructed through private property without the consent of the owner, when it is practical to construct it along or through a street or public highway. District sewers may be established within the limits of districts defined by ordinance, and shall connect with other sewers or drains, in such manner as the city council may prescribe. And the city council shall have power, in the event that any owner of property within the sewer districts that are now established, or that may be hereafter established by the city council, shall fail and refuse to make such sewer connection, after having been duly notified to make such connections, then the city council may have such connection made, and charge the expense of the same against the property, and the same shall become a tax and lien against the same, and be collected in the same manner as are other special taxes and liens provided for in this charter; and all such persons who shall fail and refuse to make such connections may be arrested and fined for each day such owner shall refuse and neglect to make such connections. The city council may compel all owners of property to make proper connections with such sewers, and regulate and enforce by ordinance the connection of all privies, sinks, etc., with public or district sewers. The city council shall also have power to provide by ordinance for the construction of a general system of drainage or storm-water sewers, in such parts of the city as they may deem necessary, and within such limits as they may prescribe by ordinance, and connect same with other like sewers or drains in such manner as the city council may by ordinance prescribe, and to regulate and enforce all rules and ordinances concerning same. Such sewers or drains shall be constructed at the cost of the property owners specially benefited or abutting on said sewers or drains. The question as to what property has been specially benefited by the construction of same shall be decided by a board of arbiters to be appointed by the city council, to be composed of three disinterested freeholders, residents of Grayson county, who shall examine into and report in writing to the city council, stating the names of all property owners benefited by same, and give a description of all such property; which report, when adopted by the city council, shall be final as to such question. Whenever the city council shall determine by ordinance that such work shall be done, they shall advertise for bids, giving the plans and specifications and extent of such improvement. The work shall be let to the lowest responsible bidder, in the discretion of the council, and with such bond as the council may require. When any such storm-water sewer or drains shall have been completed the city engineer shall report the entire cost of said work to the city council, and shall furnish a list of property owners in said district drained by said sewer or drain, and all owners abutting thereon, together with a description of the property, and the city council shall thereupon appoint a board of arbiters as herein provided for, and upon the filing of said report the city council shall thereupon proceed to assess said cost against said prop-

erty and levy a special tax therefor against the lots of ground so benefited or abutting on said sewer or drain in proportion to the area of the whole of said property so benefited or abutting thereon, exclusive of public highways. The city assessor and collector shall enter such in a book kept by him for that purpose, and shall proceed to collect same as other special taxes and liens provided for in this charter. Said tax shall be a lien upon the property from the time of the levy. The city council shall have power to regulate and enforce all rules and ordinances in the plumbing of dwelling houses and other buildings of whatsoever kind, within the limits of the city, and may require a bond from all plumbers or contractors carrying on any plumbing business, conditioned as the council may require, and may prohibit any one from doing any plumbing work whatsoever until a license is obtained by such person from the proper officer of the city, in such manner as the city council may provide. All plumbing shall be made subject to the inspection and approval of the city engineer and city council. All connections with any main line of sewer, or any lateral line thereof, shall be done at the expense of the owner of the property in or from which such connections are made.

Section 147. The city council shall have power, by resolution or otherwise, to require the filling up, draining, and regulating of any lot or lots, grounds, or yards, or other places in the city, which shall be unwholesome, or have stagnant water or filth of any kind therein, or from any other cause be in such condition as is liable to produce disease; also to cause all premises to be thoroughly cleansed, and also to order the cutting of weeds and high grass on private property, and in portions of streets and highways between the lot and curb walls, and to cause all premises to be inspected and cleansed; also to require the making, filling up, altering, and repairing of all sinks and privies, and direct the mode and material for constructing them in future. And said city council shall have full power, by ordinance, to provide for the punishment of all persons failing or refusing to do any of such things, or permitting the premises occupied by them to be in a filthy or unhealthy state. In case of filling up or draining any ground, if the owner thereof can not be found, or for any cause fails or refuses to do said filling or draining, the city may have the same done and tax the expense thereof against the said ground, as a special tax and lien thereon, and collect the same as provided for the collection of any other special taxes or assessments in this act.

Section 149. The city of Denison is hereby constituted a separate and independent school district, and shall receive from the State such pro rata of the available school fund as its scholastic population may entitle it to. The city public schools shall be under the management and control of a board of school trustees, composed of one member from each ward, who shall be selected by the legally qualified voters at the annual general elections, as vacancies occur, and shall hold their office for the term of two years: *Provided*, that at the election to be held on the first Tuesday in April, A. D. 1893, no trustees shall be elected for the second and fourth wards, and the present members of the board from those wards shall hold their office until the general election to be held on the first Tuesday in April, 1894, unless a vacancy occurs therein. They shall serve without compensation. Their duties shall be to look after the interests of the public schools of the city, and to enact suitable regulations for their government, to elect a superintendent, teachers, and janitors, and fix and pay

their salaries; to keep the school buildings and grounds in repair, and keep the property insured; purchase all supplies, make, or have made, all repairs, fences, and walks. The mayor shall be, *ex officio*, a member of the board, and they shall have power to regulate their own meetings and proceedings. They shall elect a president from among their number. They shall audit all bills and accounts, and approve the same, and order the issuance of warrants for the payment of same. The city council shall provide means to pay for all repairs, furniture, and supplies necessary for said schools, and for keeping school houses and grounds in repair. The city shall annually make an appropriation sufficient to supplement the State school fund, so as to run the schools at least nine months in each year. In case the said city shall have decided, under the laws providing therefor, that a special tax shall be levied for the support of the public free schools, the city council shall annually assess and levy such tax, or so much thereof as, in the judgment of the board of trustees, may be required to run the said schools; said levy not to exceed one-half of one per cent, to be levied by ordinance duly passed and approved in the same manner as is required in the assessment of the taxes for general purposes in said city. The city treasurer shall be treasurer of the board of school trustees, and shall execute such additional bond as the city council may by ordinance require. The city secretary shall be secretary of the board of school trustees. All bills or accounts approved and ordered paid by said board of trustees shall be paid by the treasurer on warrants issued by the city secretary and signed by the president of the board of trustees. The city council may, by resolution or ordinance, provide for the taking of the scholastic census annually in such manner as they may direct. All funds received from the State by the city as its pro rata of the available school fund, and all funds appropriated by the city council out of its general revenue for the support and maintenance of the public schools, or raised by special taxation for that purpose, or derived from any source of revenue set apart for the support and maintenance of said schools, and all funds arising from any gift, devise, or bequest made to the city for the support and maintenance of public schools, shall be under the management of the board of trustees. The city shall have power to receive, take, and hold any property, real, personal, or mixed, which has been or may be conveyed by gift, devise, or bequest, for the benefit of the public education herein, and to lease or invest the same so as to derive a revenue therefrom; and the control, management, leasing, and investment of such property, and all funds arising therefrom, shall be vested in the board of school trustees. The duty of providing school buildings and furniture, and grounds for the erection of same, shall be performed by the city council, and all funds appropriated, or raised by taxation or otherwise, therefor shall be under their control. Said school trustees shall be freeholders and qualified electors in the wards from which they are elected.

Section 158. The city council shall have full power and authority to grade, fill, raise, repair, macadamize, remacadamize, pave, repave, or otherwise improve any avenue, street, or alley, or any portion thereof, in the city, to such an extent, and out of such material, and under such regulations, as said council may provide, whenever a majority of the aldermen present vote in favor of such improvement. All grading of streets and sidewalks shall be at the cost of the city. All repairing of streets

shall be at the cost of the city, unless otherwise provided herein. The word "repairing," as herein used, shall apply only to small or ordinary defects in the streets that have been put to grade and paved or macadamized. All other improvements, such as macadamizing and paving, shall be done in the following manner, to-wit: The property owners on each side of the streets so improved shall pay two-thirds of the cost, and the city shall pay the remaining one-third, the same to be recovered pro rata, according to the number of front or abutting feet respectively owned by them on such street or avenue: *Provided*, that when any person, corporation, or company owns or operates any street railroad, or railroad of any kind, on such street, avenue, or alley, such person, corporation, or company shall pay for paving or otherwise improving that portion of the street, avenue, or alley between the rails of such road, and a space one foot in width on each side of said rails of such road. The city shall pay for all street intersections so improved, except that portion occupied or used by said railroads, which must be paid, as above provided, by the owners or operators thereof. Property owners shall pay the entire cost of all curbing. The pro rata share of the cost of such improvements due from the property owners and said railroads, as above provided, together with the expense of collecting the same, and a penalty of ten per cent for failure to pay same when due, shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the street improved, and against the roadbed, ties, rails, fixtures, rights, and franchises of such street or other railroads that may be operated thereon. The city council shall, by resolution duly passed, designate the street or streets, avenues, or alleys, or portions thereof, to be improved, the nature of the improvement to be made, and the material to be used. Whenever the city council shall so determine upon such improvements they shall advertise for bids, giving the plans, specifications, and the extent of the improvement. The work shall be let to the lowest responsible bidder, in the discretion of the council, and with such bonds as the council may require. Said council shall levy a special tax on the property fronting or abutting on the streets so improved for the pro rata amounts due from property owners, and when street or other railroads are operated on said street or streets, the council shall levy a special tax upon the roadbed, ties, rails, fixtures, rights, and franchises of such road for the pro rata share due from them for improving the space between the rails and the distance of one foot outside of said rails of such road. Said tax shall be levied after said contract is let; shall become due and delinquent as the ordinance levying the same may specify; shall be a lien from the time of the levy, and shall be used for the payment of said improvements. If said taxes be not paid as provided for by ordinance, the collection of said tax, and the further sum of ten per cent on the same as a penalty, and six per cent per annum from date of completion of such work, shall be enforced as the collection of other taxes, by advertisement and sale of property, rights, and franchises levied upon, or by suit to foreclose said lien in any court having jurisdiction: *Provided*, no sale shall be made by virtue of any special lien herein created until the end of six months after such work is completed. At such sales the collector shall execute to the purchaser a deed similar to the one executed when property is sold for ad valorem taxes. Nothing in this section shall be construed so as to prohibit the owner or owners in front of whose property such street improvement shall have been

ordered from doing such work, and thus avoid such special assessment against his or her property: *Provided, however,* such owner or owners will obligate themselves to make and complete such street improvement within the time, and in accordance with the plans and specifications made by order of the city council.

Section 160. The city council shall fix and determine the nature and extent of sidewalk improvements, and decide as to the kind of material to be used. The cost of constructing all sidewalks, including curbing, and the keeping the same in repairs, together with the cost of collection and penalty (but not including the grading), shall be defrayed entirely by the property owners of the lots or blocks fronting on the sidewalks to be constructed, according to the number of feet frontage owned by each of them. Whenever the council, by resolution or otherwise, orders the construction of any sidewalk, and notice thereof has been served on the property owner, if in the city, or if out of the city, upon his agent, it shall be the duty of such property owner or his agent to at once construct such sidewalk as is ordered by the council, and under the supervision of the city engineer. If such property owner, or his agent, shall fail or refuse to construct such sidewalks within the time required by the council, after notice served upon the owner or his agent, if he have an agent in the city, and if he has no agent in the city, then by mailing notice to said party if his residence be known, and if his residence be unknown, then by publication of said notice for ten days in the official paper of the city, then the city may have such sidewalks constructed, and the expense of the same, together with the cost of collection, and ten per cent of the cost of such work in addition thereto as a penalty, shall be a tax and charged against the person or persons owning the tract of land abutting upon the street or highway at the place where such work is done, and the same shall be a lien and encumbrance upon the land itself until the same is fully paid and discharged, and the collection of the same may be enforced by sale of the property in the same manner as provided for the collection of other special tax and lien for street improvements in this act; and such charge against such property owner shall become due on the completion of the work, and shall be collected promptly by the city assessor and collector, and if not paid within thirty days thereafter, after becoming due, the same may be collected, with ten per cent in addition thereto as attorney's fees, and six per cent interest per annum, and the lien foreclosed in any court having jurisdiction: *Provided,* no action shall be had to enforce such special tax and lien until after the expiration of six months from the time such tax was levied or such work completed. An itemized bill or statement of the work, when done by the city under the provisions of this section, after being duly sworn to by the officer under whose direction the work has been done, and after having been approved by the mayor, shall be prima facie evidence in any court of the performance of the work stated in such bill, at the cost therein stated, and compliance with all the provisions of this act, and that the amount stated is a just charge and tax against the property owner therein named, and a lien upon the property described, as shown therein, subject to such correction as to the court shall seem meet and proper. In addition hereto the city council shall have the power, by ordinance, to punish persons who fail or refuse to build or repair sidewalks after having been duly notified.

SEC. 2. The fact that it is important to the interest of the general public of said city that the changes of the charter of said city made by this act go into effect immediately, creates an emergency and an imperative public necessity, which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 27, A. D. 1893.

[NOTE.—The foregoing act takes effect March 27, 1893.

DALLAS—AMENDMENT TO CITY CHARTER.

CHAP. 4.—[H. B. No. 676.] An act to amend sections 6, 8, 9, 10, 14, 15, 61, and 185 of an act entitled "An act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, and section 161 of said act, as amended in 1891; and to repeal section 10 of an act entitled "An act to amend sections 10, 21, 28, 94, 120, 140, and 158 of an act entitled an act to incorporate the city of Dallas, and grant it a new charter," approved March 13, 1889, passed by the Twenty-second Legislature, and certified to by the Secretary of State on March 9, 1891, and to repeal all conflicting laws; and to conform same to the objections of the Governor, in his veto message of March 18, 1893.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That sections 6, 8, 9, 10, 14, 15, 61, and 185 of an act entitled "An act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, and section 161 of said act as amended in 1891, be and the same are hereby amended so as to read as follows:

Section 6. The legislative power of the city of Dallas shall be vested in the city council, consisting of the mayor and one alderman from each ward, all of whom shall be elected by the people biennially as hereinafter provided; said officers shall perform such duties as are herein required and as may be prescribed by ordinances. The mayor shall receive an annual salary of not more than twenty-four hundred dollars, and he shall not receive any fees or commissions. The aldermen shall receive for their salaries such compensation as the city council may provide by ordinance, not to exceed three dollars for each meeting.

Section 8. No person shall be eligible for any office, elective or appointive, of the city of Dallas unless he shall be a qualified voter therein; and no person shall be eligible for the office of mayor or alderman of said city who owns or holds any shares of stock in any corporation having or to have any contract with said city by which it holds any right, franchise, or immunity from said city government, or which is entitled to any compensation out of the city treasury; and no member of the city council shall hold any other office or employment under the city government while he is a member of said council, unless in the city charter otherwise provided; and no member of the city council, or any officer of the city council, shall be directly or indirectly interested in any work, business, or contract, the expense, price, or consideration of which is paid from the city treasury, or by any assessment levied by an ordinance or resolution of the city council, nor be the surety of any person having a contract,

work, or business with said city, for the performance of which security may be required, nor be surety on the official bond of any officer of the city. Contracts in violation of said provision shall be void.

Section 9. The first general election under this charter shall take place on the first Tuesday in April, 1893, at which time, and every two years thereafter, there shall be elected by the qualified voters of said city a mayor and city judge, who shall hold their offices for two years and until their successors are elected and qualified. There shall also be elected at said time by the qualified voters of each ward in said city in which the office of the alderman theretofore elected from the said wards shall expire at said time, one alderman; the aldermen so elected shall hold their offices for two years and until their successors are elected and qualified: *Provided*, at the first general election held under this charter there shall be elected one alderman from each ward. Six of said aldermen shall hold their offices for two years and until their successors are elected and qualified, and six for one year and until their successors are elected and qualified. The length of time for which each of said aldermen shall serve shall be decided by lot at the first meeting of the city council after said aldermen shall qualify, or as soon thereafter as practicable. At such time said aldermen shall divide themselves into two classes, one of which classes shall serve one year, and one of said classes for two years, and until their successors respectively are elected and qualified: *Provided*, that the term of office of all the present aldermen of said city shall expire on the first Tuesday in April, 1893, and as soon thereafter as the aldermen elected, as herein provided, shall qualify.

Section 10. The general election held under this charter shall be held on the first Tuesday in April, 1894, at which time, and every two years thereafter, there shall be elected by the qualified voters of said city a city collector, city assessor, and chief of police, who shall hold their offices for two years and until their successors are elected and qualified. There shall also be elected at said time by the qualified voters of each ward in said city in which the office of the aldermen theretofore elected from said wards shall expire at said time, one alderman. The aldermen so elected shall hold their offices for two years and until their successors are elected and qualified.

Section 14. All such elections shall be held according to the provisions of the law of the State of Texas applicable thereto; the presiding judges thereof shall be qualified voters in the city. The city council shall provide for their compensation and regulate and define their duties and power, and they shall have such judges and clerks as are in such cases provided by the laws of the State of Texas, which judges and clerks shall be selected by the presiding judges. In case the officer so appointed presiding judge is unable, fails, or refuses, or neglects to act as such, or the city council shall fail to appoint, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint such officer, who shall have the same powers and perform all the duties of presiding judge. But in such cases, such judges shall in their returns certify that the presiding officer failed to appear, and that the presiding officer acting as such was duly elected by the electors present.

Section 15. The manner of conducting and voting at such elections under this act, keeping the poll lists, canvassing the votes, and certifying the returns shall be such as provided by the laws of the State of Texas

for similar elections, and as may be provided by the city council by ordinance.

Section 61. To provide for the lighting of streets, public grounds, and public buildings, and furnishing the citizens of said city with light, and to erect, own, use, and operate all necessary machinery, fixtures, appliances, and appurtenances, of every nature whatever, necessary for said purpose, and to demand and receive compensation for lights furnished for private purposes, and to provide for the location and regulation of such lights.

Section 161. That the city public schools shall be under the management and control of a board of school directors, composed of the mayor and one member from each ward, which said members, with the exception of the mayor, shall be elected at the general elections of the city, and shall hold their offices for the term of two years, and serve without compensation: *Provided*, that this section shall in no way interfere with the term of office of any of the present members of said board, except the members from such wards as may be changed or established prior to the next general election: *And provided*, that the members of said board who shall be elected from such wards as may be changed or established prior to said election shall, in such manner as said board may determine, as soon after said election as practicable, divide themselves into two classes, one of which said classes shall serve for one, and the other for two years, and until their successors are elected and qualified. Any vacancy on said board shall be filled in conformity with the ordinance regulating special elections. Said board of school directors shall have exclusive control of the public schools of the city of Dallas, and shall have full and complete power to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the city of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management. Among the powers hereby conferred on said board of school directors, the following are, for greater certainty, enumerated: To contract for, lease, and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in the same; to furnish said school buildings with all appropriate furniture, fixtures, and apparatus; to lay off the city in such school districts as in the judgment of said board shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers, and such other persons as may be necessary, and to fix their compensation and prescribe their duties; and establish all regulations and rules deemed necessary by the board to provide and maintain an efficient system of public schools in the city of Dallas. Said board of school directors shall, annually, at such times as may be fixed by the city council, file with the mayor and city council an official statement of the amount of money, as nearly as can be estimated by said board, which will be needed to pay the cost of maintaining the public schools for the next succeeding scholastic year, exclusive of the money, if any, derivable from the State or any other source: *Provided*, the amount required by said board shall not in any one year exceed one-fourth of one per cent of the taxable values of the city of Dallas. When said statement shall be filed by said board, the city council shall, in such sums and at such times as the school board may determine are necessary

to meet the requirements of said board for defraying the expenses incurred, appropriate out of the funds of the city, as far as collected, the amount required by said board for school purposes, which said sums, together with all sums received from the State, county, and other school funds, shall be held in the city treasury subject to the order and disbursement of the school board, and shall be paid out upon warrants issued by order of the school board, and signed by the president, attested by the secretary, and countersigned by the mayor. The mayor and city council shall have the right at any time to demand of said school board an account of all sums received, disbursed, and expended by them for school purposes, accompanied by vouchers, data, and all other information deemed necessary to enable the city council to ascertain the cost, necessities, and expenses of said public schools.

SEC. 2. That section 10 of an act, entitled "An act to amend sections 10, 21, 28, 94, 120, 140, and 158 of an act entitled an act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, passed by the Twenty-second Legislature, and certified to by the Secretary of State on March 9, 1891, be and the same is hereby repealed.

SEC. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

SEC. 4. The near approach of the election in the city of Dallas creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended; and this act shall take effect and be in force from and after its passage, and is so enacted.

Approved March 30, A. D. 1893.

[NOTE.—The foregoing act takes effect March 30, 1893.]

HOUSTON—CITY CHARTER.

CHAP. 5.—[H. B. No. 561.] An act to incorporate the city of Houston and grant a new charter to the said city of Houston.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all the inhabitants of the city of Houston shall be a body corporate, to be known hereafter by the name of the city of Houston, and by that name they shall hereafter be known in law, and shall be capable of suing and being sued, and defending in all courts in all matters whatsoever; and may have a common seal, and may alter and change the same at pleasure; may own, hold, and convey any estate, real or personal, for the use of said corporation, for any purpose whatsoever, both within the limits of said city and without the limits of the same, in Harris County, Texas.

SEC. 2. That the bounds and limits of said corporation shall be three miles square, to be run with the cardinal points of the compass, of which the center of the court house square in the city of Houston shall be the center.

SEC. 3. That the city council may divide the city into a convenient number of wards, not less than three nor more than twelve, and define

and establish the boundaries thereof, and may change the same, from time to time, as may be deemed expedient, having regard for the number of inhabitants, so that each ward shall contain, as near as may be, the same number of qualified electors for city elections.

SEC. 4. That each ward in the city may be divided into as many sections and as many polling places as may be prescribed in said sections as the city may see fit and proper; and each ward in the city shall be represented in the city council by two aldermen, who shall hold office for two years and until their successors are elected and qualified; said aldermen shall be elected by the qualified voters of the ward for which they stand, and all voters shall have resided in such ward at least thirty days next preceding any election. And no person shall be competent to fill the office of alderman unless at the date of his election he be a qualified voter of the city and of said ward, and a freeholder owning real property in said city and ward. Should any alderman remove from his ward during the term for which he was elected, his office shall thereupon become vacant, and the council shall order an election in said ward to fill such vacancy.

SEC. 5. That the administration of the business affairs of said corporation shall be conducted by a mayor and board of aldermen, consisting of two aldermen from each ward, who shall compose the city council.

SEC. 6. All qualified electors of the State, who shall have resided for six months immediately preceding the election within the limits of said city, shall have the right to vote for mayor and all other elective officers of said city; but in all elections to determine the expenditure of money or the assumption of debt, only those shall be qualified to vote who pay taxes on property in said city.

SEC. 7. That the mayor shall be elected by the qualified voters of the city, and shall hold his office for the term of two years, and until his successor is elected and qualified. No person shall be mayor unless he is a qualified elector of the city. He shall be a conservator of the peace throughout the city. He shall have power, by and with the consent of the city council, to appoint any number of policemen on any special occasion that he may deem necessary to preserve the peace of the city, and to discharge the same at pleasure. He shall have power, in case of necessity, to call out the militia, or any military company in the city, to aid in the suppression of any riot or public disturbance. He shall be active and vigilant in enforcing all laws and ordinances for government of the city, and he shall cause all the subordinate officers to be dealt with promptly for any neglect or violation of duty. He shall preside at all meetings of the council when present, and in case of a tie vote in the board of aldermen he shall give the casting vote. He shall have the power to veto any resolution, by-law, ordinance, motion, or order passed by the council, in the following manner:

He shall give notice of his veto at the same meeting in which said action was had, which shall be entered upon the minutes. At the next regular meeting he shall furnish to the council his reasons, in writing, and unless the council shall pass such law, ordinance, etc., over his veto by a vote of two-thirds of the aldermen present, taken by "yeas and nays," and entered upon the journal of the council, the same shall be inoperative. He shall have and exercise such power and authority as may be

conferred by the city council, not inconsistent with the general purposes and provisions of this charter.

SEC. 8. That regular meetings of the city council shall be held in the council chamber at least twice in each month, at such times as may be fixed by resolution of the board, and the mayor, of his own motion, may call special meetings for the transaction of special business by written notices served personally upon each member of the board, or left at his usual place of abode. Any three members of the board may, in like manner, call special meetings of the council; but no special meetings shall be called except in cases of urgent necessity, and the written notices served upon the members of the board shall state the object and purpose for which the meeting is called. General business shall only be transacted at the regular meetings. The city council may adjourn from day to day, until the business properly coming before it is disposed of.

That a majority of the whole number of aldermen elected and qualified shall be required to constitute a quorum, but any four aldermen may convene and compel the attendance of absent members on any day of regular meeting, requiring the city marshal or other police officer to arrest and bring in the absent members. That the city council shall adopt rules and regulations for the government of the council in its proceedings, and the order for the transaction of business before it.

It shall be the judge of the qualifications and election of members of the council, including the mayor.

It may punish members or other persons during the sittings of the council for disorderly conduct, to the extent that it may fine and imprison, by its by-laws and ordinances. And with the affirmative vote of two-thirds of the whole number of aldermen elected and qualified, the council may remove any officer of the city for any conduct or offense which in the opinion of the council, expressed by the two-thirds vote aforesaid, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard by himself or counsel, or both; and in the investigation of any complaint under this section the council may subpoena and examine witnesses, under the usual rules for taking testimony.

That the meetings of the council shall be held with open doors, except when, by a vote of two-thirds of the members present, it may be deemed expedient upon a special question to deliberate with closed doors.

SEC. 9. That whenever it shall be necessary so as to do, the board of aldermen shall, by ballot, elect a member of their own body to act for a designated period as mayor pro tem., who, for the time, shall have and exercise all the powers and authority of the mayor. That in case of a vacancy occurring in any office elective by the qualified voters of the city the council shall fill the vacancy by appointment for the unexpired term.

SEC. 10. That there shall be elected by the qualified voters of said city a city engineer, treasurer, city marshal, assessor and collector of taxes, street commissioner, and a city recorder, who shall hold their respective offices for two years, and until their successors are qualified, unless sooner removed by the city council: *Provided*, that the present officers of said city shall hold their offices until the next election of city officers, as prescribed by the ordinances now in force. The assessor and collector may appoint one or more deputies, for whose conduct he shall be responsible,

and deputy or deputies shall have power to perform any act which may be performed by the assessor and collector in person.

SEC. 11. The mayor shall appoint a secretary, a city attorney, a market master, a health officer, a city scavenger, and a superintendent of schools, whose appointment shall be confirmed by the city council, who shall hold their respective offices for two years, and until their successors are qualified, and shall perform such other duties as may be prescribed by the city council.

SEC. 12. The mayor, with six citizens of the city of Houston, three of whom shall be appointed each year by the mayor and confirmed by the council, shall constitute the board of public school trustees of said city.

SEC. 13. That the recorder of said city shall exercise such jurisdiction as may be prescribed by the city council, not inconsistent with the Constitution and laws of the State, and such as may be conferred by the general laws on mayors and recorders; but when any person has been tried before a justice of the peace for any offense committed in said city against a general law, such person shall not be tried again for the same offense before said recorder. The rule of procedure in courts of justices of the peace in criminal matters shall govern the recorder's court in all matters in practice, and appeals may be taken from his decisions in a like manner. In the absence of the recorder, or in case of his inability to hold his court, the mayor of said city shall hold the same, and the acts and judgments of such mayor shall have the same force and effect as those of the recorder. The recorder shall have the same power to administer oaths, punish for contempt of his court, to summon witnesses and compel their attendance by process, to summon jurors and compel their attendance, as justices of the peace have. Such recorder's court shall be opened daily, and the accused shall have a speedy public trial. The salary, if any, and fees of such recorder shall be determined and fixed by the city council; and such recorder shall, from time to time, as required, report to the council, and do and perform such duties properly appertaining to the office as may be prescribed by the city council: *Provided*, That all process beyond the city limits shall be directed to and executed by the sheriff or some constable of the county.

SEC. 14. The city secretary shall attend the city council at its meetings, and shall have the custody of all laws and ordinances of the city, and of its valuable papers, records, and archives, and also of the common seal of the corporation, and shall affix the same to the obligations of the city by order of the city council. He shall keep a regular and correct journal of the proceedings of the council in well bound record books, and shall perform such other duties as the city council may prescribe or direct.

SEC. 15. The city treasurer shall have the custody of all moneys, and shall receive all moneys and revenues coming into the city treasury, and pay the same out by order of the council. He shall keep the moneys and funds of the city on deposit in some bank in the city of Houston, and he shall keep the accounts of the city in well bound books, and the books and records of the office shall be open to the inspection of any citizen at any reasonable and proper time. He shall prepare and publish in one or more newspapers printed in the city of Houston an accurate and detailed statement and account of the receipts and disbursements of the revenues of the city, the outstanding obligations and liabilities of the city, and the con-

dition of the city treasury, which statement shall be prepared and made up to the last day of December of each year, and published on or before the fifteenth day of January following; and it shall be the duty of the city council to require this statement to be made and published, and should the statement not be made in the manner and at the time provided, the treasurer shall be liable to a fine of one thousand dollars, to be recovered in the district court of Harris county, at the suit of the city attorney, for and in behalf of the city of Houston, and the securities of the city treasurer on his official bond shall be liable for the amount of such fine.

SEC. 16. The city attorney shall attend all meetings of the council, attend to all civil suits to which the city is a party, unless the council otherwise provides, and shall represent the city and State, in person or by deputy, in the recorder's court when necessary, when requested so to do; shall draw all ordinances and inspect and pass upon all documents involving the interests of the city when requested so to do by the mayor or city council, and shall be the legal adviser of all the officers of the city upon legal questions touching their official duties, and he shall perform such other duties as the council may prescribe.

SEC. 17. That the city marshal shall be the chief police officer of the city, under the mayor. He shall, in person or by proxy, or by some officer of the police force, attend all regular and special meetings of the council. He shall attend upon the recorder's court, and shall promptly execute and return all process issued from said court. He shall be active in quelling riots, disorders, and disturbances of the peace within the limits of said city, and shall take in custody all persons so offending against the peace of the community. He shall arrest all offenders against the ordinances of the city for offenses committed in his presence, and shall have authority to take bail for their appearance before the recorder, and in default of giving which, he shall commit them to the city prison for safe keeping until they can be brought before the recorder for trial. He shall have authority to appoint one deputy, for whose acts and conduct he shall be responsible, and such deputy shall have all the power and authority of the marshal. He shall perform such other duties, and shall be invested with such other powers, rights, and authority as the city council may by ordinance confer, not inconsistent with the Constitution and laws of the State. He shall be, at all times, under the direction and control of the mayor and the city council, and may be by them suspended or removed from office for cause deemed by them adequate. He shall not absent himself from the city, without first obtaining from the city council a leave of absence, which leave shall state the duration of such absence.

SEC. 18. That the assessor and collector shall assess and collect all licenses and taxes levied and imposed by the city council, and shall pay the same over to the treasurer weekly, on the Saturday of each week, taking duplicate receipts therefor, one of which he shall retain, and the other he shall return to the council (or the proper committee appointed by the council to receive the same), with his report in detail, showing the several amounts received and by whom paid, which report shall be made to the first meeting of the council in each month. He shall be governed by the rules and regulations hereinafter prescribed in relation to the assessment and collection of licenses and taxes imposed by the city council, and shall do and perform such other acts and duties concerning the administration of his office as may be prescribed by the city council.

SEC. 19. That the officers named in this charter shall perform the duties prescribed by this act, and such other duties as may be prescribed by ordinance. And there shall be such other officers, servants, and agents of the corporation as may be provided by ordinance, to be appointed by the mayor, with the approval of a majority of all the aldermen elected and qualified, who shall perform such duties and receive such compensation as may be prescribed by ordinance. The council may require any officer or agent of the city, as it may deem proper, to give good and sufficient bond, with approved security, for the faithful performance of his duties in such sum as it may prescribe.

SEC. 20. That bonds shall be required of the city assessor and collector and of the city treasurer in an amount not less than double the amount of funds which may probably be in their hands at any one time, to be determined by the council, which bonds shall be upon such conditions as may be determined by the city council, and with good securities, to be approved by the city council, and the city shall in like manner require bonds of any officer or agent of the city through whose hands the money of the city may pass.

SEC. 21. That the salary and fees of officers of said city shall be determined by the city council at least one month previous to their election, which salaries and fees, when so determined, shall not be raised or lowered during the period for which said officers were elected.

SEC. 22. That the by-laws and ordinances of the city shall be enforced by fine not to exceed two hundred dollars, or by imprisonment in the city prison not to exceed thirty days, or by both fine and imprisonment: *Provided*, that no ordinance or by-law shall provide a less penalty than is prescribed for a like offense by the laws of the State. The city council may provide, by ordinance, for the commutation of fines imposed by labor in a work-house, on the streets, or public works; and for the collection of any fine imposed execution may be issued from the recorder's court in the name of the city of Houston against the goods and chattels, lands and tenements of the person offending.

SEC. 23. The city council shall have the exclusive control and regulation of all streets, alleys, public grounds, and highways within the corporate limits of the city, and shall have power to abate and remove encroachments thereon in a summary manner, to put drains and sewers therein, and when necessary to appropriate private property for that purpose; to permit, to prevent, and regulate the laying of gas and water mains therein, and the erection of telegraph, telephone, and electric light poles therein; to impose such terms as to them may seem proper for the use of the streets and sidewalks for any purpose whatever, by any person or corporation, and to demand and collect for the use of the same such compensation as to the city council shall seem meet and proper; to regulate, establish, and change the grade of all sidewalks, streets, and premises, and to require and compel the cutting down or filling up and raising of such streets and premises; to construct, regulate, and keep in repair all bridges, culverts, sewers, and crossings, and to control and regulate the use of the same; to construct, regulate, and keep in repair all necessary sidewalks and footways and streets, to grade, cut down, and fill up the same, to regulate the use, and abate and remove encroachments and obstructions thereon, and to compel the removal of the same, and to punish any person or corporation by fine or imprisonment, or by the imposition

of a penalty to be collected in a civil suit, who shall encroach upon or obstruct the same, or who shall fail to have such encroachments withdrawn or such obstruction removed after being notified by the proper officer to remove or withdraw the same, and to provide by ordinance that each day such encroachment or obstructions are permitted to remain after notice is served shall constitute a separate offense.

Sec. 24. The city council shall fix and determine the nature and extent of all sidewalk, curbing, street, drainage, and sewerage improvements, and decide as to the kind of material to be used. The cost of constructing or repairing (as the case may be) of all sidewalks, footways, and curbing, and cost of grading, shelling, paving, repairing, or otherwise improving any avenue, street, alley, or other highway, or any portion thereof, within the limits of the city, and the cost of all drains or sewers laid and constructed within the city, together with the cost of collecting thereof, shall, whenever, by a vote of two-thirds of the aldermen elected, such improvements shall be declared necessary for the public interests, be defrayed, in case of curbing, sidewalks, and street improvements, by the owner or owners of the lot or lots, block or blocks, tracts of land when not laid out into lots and blocks, abutting on such street or portion of street improved, according to the cost of work in front of the particular lot or block or tracts of land, and in case of sewerage or drainage improvements, shall be defrayed by the owner or owners of such lot or lots, block or blocks, or tracts of land when not laid out into lots or blocks, according to the proportionate benefits of the lots, blocks, or tracts of land within the sewerage or drainage districts hereinafter provided for, taking into consideration the area and locality of the property affected; and the cost of all such improvements shall be a tax and charge against the person or persons owning such lots, blocks, or tracts of land at the time such tax or any portion thereof shall become due as to such lots, blocks, and tracts of land, and a lien and encumbrance upon the land itself; and said tax against the property owner may be collected, and a lien upon the property foreclosed in any court having jurisdiction. The city council shall have power to provide by ordinance for the laying out of drainage and sewerage districts within said city, and to provide for the cost of constructing main and lateral drains, sewers, or conduits in such districts, by assessments against the owner or owners of the lots, blocks, or tracts of land when not laid out into lots and blocks, in such sewerage and drainage district, according to the proportional benefits respectively to such lots, blocks, or tracts of land, in view of area and locality; and main sewers and drains may be constructed, and the cost of the same assessed [against] the land within such district as aforesaid in contemplation of additional lateral or cross sewers or drains being constructed within such district at some future time. The cost of constructing curb walls and gutters, and sidewalks on the corner of any block shall be assessed against the owner or owners of the corner lot or tract of land abutting thereon: *Provided*, nothing in this act shall be construed to prevent the city council from constructing sewers and drains, or making street improvements in whole or in part at the expense of the city, should it be deemed advisable to do so. The city council shall, by resolution duly passed, designate the streets, or portions of streets, on which curbing, sidewalks, or street improvements shall be made or constructed, and the district within which the sewerage or drainage improvements shall be constructed, and the general nature of the improve-

ments to be made, and the principal ingredients of the materials to be used: *Provided, however,* that provisions may be made in such resolution for receiving bids on more than one kind of material, or of different modes of construction. Said resolution may be amended or changed by a two-thirds vote of the city council at any time previous to the publication of the advertisement for bids, and it shall be proper to embody in the same language to the effect that the improvements contemplated will be made only on those portions of the street or streets referred to where good and sufficient improvements of like character do not exist; and in such event the mayor, as the work progresses, shall determine where such existing improvements, if any, are in fact good and sufficient, within the meaning and intent of the resolution, and he shall direct the contractor accordingly; and any property owner shall have the privilege of putting down his own sidewalks and curbing in front of any lot owned by him, provided the same are completed or in course of construction prior to the leaving of material near the same for that purpose by the contractor employed by the city, and if in course of construction are completed in a manner satisfactory to the mayor at such time, to be determined by the mayor, as will not interfere with the work being otherwise done by the contractor. When sewerage or drainage improvements are contemplated, said resolution shall refer to the district within which property will be assessed for the payment of the same. The cost of paving any street intersection under the provisions of this act shall be borne by the city, and the city council is hereby authorized to levy for that purpose an annual ad valorem tax, not exceeding one-fourth of one per cent per annum. The city shall have the same time in which to pay for said work as individuals have under the provisions of this act; and street intersections as here used shall be deemed to mean all that portion of the street improved within an extension of the block lines of the intersecting streets. Any railroad or street railway company shall be liable for the cost of grading, paving, or otherwise improving the portion of the street or intersections used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of a street occupied by any railroad or any street railway company shall be deemed to mean all that portion of the same between the rails of all tracks laid, and extending twelve inches beyond the outer edge of the rails of such road, and including the space between double tracks and between the main track, sidetracks, or turnouts. Any railroad or street railway company proposing to occupy any street already occupied by any such company shall, besides paving along their tracks as above provided, be required to also pave between the tracks of said two roads to within twelve inches of the track of such other road. And any person or corporation having an easement in any land not in but abutting on the street, shall be liable for street, curbing, sidewalks, drainage, or sewerage improvements in same manner as though it or he were the owner of such land, and a lien shall exist on such land, inclusive of such easement right, to secure the cost of such improvement. Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of section 23 et seq. of this act, it shall become liable, according to the portion of street occupied by such company as defined above, for such portion of the cost of improvement as the city council may direct, not in excess of what would have been its proportion

of the original cost of the improvement had its track been on the ground when the improvement was made; and such amounts, when collected, shall be credited on the assessments made against abutting property, and the city council may, by ordinance, provide for the form and manner of collecting and disbursing the same. Before any railroad or street railway company shall be permitted to occupy such improved street or portion of street, it shall file with the city secretary, in writing prepared by the city attorney, an acceptance of the terms on which its occupancy shall be permitted.

SEC. 25. After the passage of a resolution of the character next hereinbefore referred to, it shall be the duty of the city secretary to have said resolution or so much of the substance of the same advertised for not less than four days in some daily newspaper published in the city of Houston as will inform any person owning property liable to be affected by said resolution of the fact that the making of improvements is contemplated by the city council, which if carried out will subject his property to a special tax assessment for the payment of the same, and no further action in regard to the proposed improvements referred to in such publication shall be taken until the lapse of ten days from the first publication thereof: *Provided, however*, that failure to advertise the same for more than one day, or any mistake or omission in the wording of said advertisement, shall in no way vitiate or affect the validity of special assessments levied under the same. After the passage of such resolutions specifications for the improvements referred to in the same shall be prepared by the city engineer from time to time as the work progresses, which specifications, when prepared and adopted by the city council, shall be opened for public inspection in the office of the city secretary or that of the city engineer; and it shall be proper to provide in said specifications for such reasonable alterations in the grade, plan, form, or dimensions of the work, or additions to the same, as may become apparent or found to be necessary or expedient by the city engineer or board of public works, as the work referred to in same progresses: *Provided, however*, that it shall be the duty of said board of public works to examine said specifications, and a majority of the members thereof shall endorse their report in reference to the same thereon, or affix it thereto, before the same are approved by the city council: *Provided further, however*, that said city council shall nevertheless have the right, after such report shall have been made by the board of public works, to amend or change said specifications without further reference to said board. After said specifications shall have been finally approved by the city council, bids for the construction of said improvements shall be solicited by public advertisement, duly made, which advertisement shall refer to said specifications, and the work provided for in the same shall be let to the lowest bidder, to be judged of by the city council. Said advertisement shall be published in the city, inviting bids thereon, and the same shall state the time when such proposals will be opened, and shall show the manner in which the work is to be paid for. All proposals shall be addressed to the city secretary, and shall be opened in the presence of the city council at a regular meeting. Bond, to be fixed in amount by the city council and approved by the mayor, shall be required of all contractors.

SEC. 26. After a bid for the construction of sidewalks, curbing, street, drainage, or sewerage improvements shall have been accepted by the

council, and a contract for the construction of the same entered into, from time to time, as rapidly as practicable, there shall be prepared by the city engineer a roll or rolls, showing the number of lots, blocks, or tracts of land when not divided into lots or blocks, fronting on the street, alley, avenue, or highway to be improved, or in case of sewerage or drainage or other improvements within the district provided for, the name or names of the owner or owners of such lot or part of lot, block, or tract of land, if known to the city engineer, and if unknown to him it shall be so stated, the number of feet frontage of such lot or part of lot, block, or tract of land fronting on the portion of the street improved, in case of sidewalks, curbing, or street improvements, and the proportional cost to such lot or part of lot, block, or tract of land, in view of area and locality, in case of sewerage or drainage improvements, and the total cost as ascertained and calculated by the city engineer of such improvements necessary to be borne by each, and to be paid by each owner of such property described in such roll. After said city engineer shall have prepared a roll as provided for, covering any portion of the work embraced in the contract, he shall endorse thereon a certificate in substance as follows: "I certify that the above and foregoing roll of ownership and estimate sheet is correct, and that I have honestly and faithfully prepared the same," and he shall sign [his] name to such certificate. It shall then be the duty of the board of public works to examine such roll of ownership, and a majority of the members of said board shall endorse thereon or attach thereto such report in reference to the same as they may deem proper. It shall also be the duty of the city attorney to examine said roll, nor shall the same be submitted to the city council for approval until he shall have certified that such roll of ownership is in due form, as required by the city charter. After the publication of said resolution, hereinbefore referred to, it shall be the duty of all persons owning land liable to assessment for the cost of improvements referred to in such resolution to file in the office of city engineer, previous to the completion of said roll of ownership, a correct description of all such land owned by them; and any one of them failing so to do shall not be permitted, after the final approval of said roll of ownership, to resist the payment of the full sum therein assessed against him, or against property owned by him, on account of any mistake or omission in said roll pertaining to the description of the land so owned by him, or to the name or names appearing in said rolls as the owner of the same. It shall, however, be the duty of the city engineer to exercise reasonable diligence in ascertaining the name of the owner of the respective tracts of land referred to in such roll of ownership, and in describing such tract of land correctly, and for this purpose it shall be sufficient for him to adopt the description and designation of ownership appearing in the latest assessment rolls of the city of Houston prepared for the purpose of general taxation completed at the time of the preparation of such rolls of ownership. The said roll, when approved by the city council, shall be prima facie evidence that all the prerequisites required by law pertaining to the levying of said assessments have been complied with, and in case of suit by said city to enforce said assessment, all the provisions of this act relating to misnomer, misdescription, and to suits against unknown owners in case of certificates, shall apply in favor of the city.

Sec. 27. After a roll of ownership shall have been prepared as above

provided for, the same shall be placed in the office of the city secretary for public inspection, and it shall thereupon be the duty of the city secretary to cause to be published for not less than four days in some daily paper published in the city of Houston, a notice in form substantially as follows: "Persons owning property on [here insert the name of street or streets, or description of portions of the same referred to in said roll, or a description of the territory or district to which the roll relates] are hereby notified that the roll of ownership showing the amount of the special assessment tax levied against the owners of property above referred to to cover the cost of improvement made in accordance with the resolution of the city council relating to the same, adopted [here insert the date of the resolution], has been placed in the office of the city secretary for inspection, in order that all persons interested therein, or to be affected thereby, may have an opportunity of calling the attention of the city council to any errors or mistakes connected with such assessments levied against property owned by them, as shown in said rolls." And said roll shall in no event be adopted or approved by the city council until after the lapse of ten days after the first publication of said notice; and on the filing of said roll in the office of the city secretary for public inspection, as aforesaid, it shall be the duty of the city secretary to mail a copy of said notice to the postoffice address, as far as known to him, of all persons whose names appear on said roll, and where the postoffice address of any person named in said roll is unknown to said city secretary, he shall address a letter containing said notice to Houston, Texas: *Provided, however*, that failure on the part of said city secretary to comply with the provisions above stated in respect to mailing said notice to any person named in said rolls shall in nowise impair or affect the validity of said roll or the validity of the assessment provided for by the same. The publication of said resolution, or substance of the same, as hereinbefore provided for, and the publication of said notice, shall be notice to all persons owning property against which special tax assessment for sidewalk, street, drainage, or sewerage improvements, or for any other purposes, may be made of the pendency of the proceedings had and to be had, and the acts taken and to be taken in reference to the same, and such persons shall be permitted, at any time after the date of the first of such publication, and previous to the final approval of said rolls by the city council, by petition to the city council filed with the city secretary, to object to any such acts and proceedings, and show wherein they have been or may be wronged or injured thereby, and to ask for a revision or correction of the same; and they shall be permitted, and it shall be their duty, before the final approval of such roll, to appear in person, or by agent or attorney, before said city council, and not thereafter at any time before any other tribunal, fraud and collusion, which was then unknown and could not by reasonable diligence have been ascertained, excepted, and apply for redress for such wrong or injury, and for the correction of such errors as they may point out and establish to the satisfaction of said council; nor shall any such roll be finally approved by the city council after filing of such petition by any person so affected or liable to be affected by said proceedings, until such petition shall have been heard and acted upon by the city council, although it shall not be necessary to incorporate in the minutes of said city council its action thereon; and it shall be the duty of any person who may deem himself

injured by the action or non-action of the city council in reference to the matters contained in such petition, within five days after the approval of such roll of ownership, to apply to the proper court for an injunction, based on the facts alleged in such petition, restraining further action on the part of the city officials, or any of them, in reference to the matter complained of in such petition, and to the extent of the petitioner's interest in the same; and neglect or failure so to do shall forever estop such petitioner and all parties claiming under him from denying the correctness of said roll or the regularity of all proceedings previously had in reference thereto, or the validity of the special tax therein assessed against the land owned by him, and at all times and all proceedings in any court in which the validity of any special tax assessment that may have been laid under the charter of the city of Houston or amendments thereto, as shown by any roll of ownership purporting to have been prepared by the city engineer in accordance with the provisions thereof may be called in question. A recovery shall nevertheless be had in such suit for such sum as ought to have been assessed against the tract of land involved, according to the mode of apportionment provided in the law of said city applicable to such improvement; and if for any reason in law or fact such recovery can not be had, then a recovery shall be allowed *quantum valebat*, not exceeding the contract price for the improvement in front of the lot or lots, block or blocks, or tracts of land involved, according to the front foot rule or standard; and if for any reason in law or fact recovery can not be had in either of the above modes, then recovery shall be allowed, not exceeding the contract price, to the extent and according to the standard of benefits from the improvement in question to the lot or lots, block or blocks, or tract of land involved; and such recovery, in whichever mode allowed, shall be a lien on such lot or lots, block or blocks, or tract of land, for such amount as shall be established, together with six per cent thereon from the date of the acceptance of said work by the city, and such lien shall be established and foreclosed accordingly. In case of curbing, sidewalk, and street improvements, whether the recovery is had on the original assessment or otherwise, the lien shall extend in depth as to tracts of land not laid out into lots and blocks to the usual depth of lots in said city, namely, one hundred feet.

SEC. 28. The sum assessed against each separate lot or tract of land, when not divided into lots described in the roll of ownership, shall bear interest at the rate of six per cent per annum from the first day of the month next after the acceptance by the city council of the work embraced in said roll, and shall be divided by the city secretary into annual installments, not less than three nor more than ten, as may be provided by the resolution authorizing said assessments, and of as nearly equal amounts, not less than ten dollars each, as he may deem most convenient, and he shall add to each installment the amount of interest to become due on the entire amount of principal unpaid at the maturity of said installment, and the sum so computed shall constitute the total amount due each year respectively on said tract of land. The first of said installments shall become due on the first day of the month next after the acceptance of the work embraced in said roll, and the remaining installments shall become due on the same day in each year thereafter until all are due; and the failure to pay any installment, with interest thereon, within six months after it becomes due, shall, at the option of the person entitled to collect the

same, cause all subsequent installments to mature, and shall authorize the foreclosure of the lien for all installments of principal and interest unpaid. The owner of any property subject to assessment may at any time, whether the same be due or not, pay the same or any part thereof, with interest to the date of such payment, to the city treasurer, who shall give a receipt therefor, and note the same on the assessment roll, and if an improvement certificate has issued therefor notify the owner thereof, if known, by card through the mail, and upon the presentation of said certificate apply the sum so collected towards its payment; otherwise deposit the same as hereinafter provided in case of other collections of special assessments for street improvements; and the payment of any such assessment in full shall release said property and the owner thereof from any further liability for the work upon which said assessment was made or the obligation issued therefor.

SEC. 29. Where it has been provided by the contract that such improvements shall be paid for in improvement certificates, such certificates may be issued for the sums assessed against the several separate tracts of land appearing on said roll, whether embracing one or more lots. Each certificate shall designate the tract of land against which and the sums of money for which it is issued, that said sum has been assessed against said property as its proportion of the cost of street improvement made under a contract between the city of Houston and [here name the contractor], dated [here give the date], executed by virtue of a resolution of the city council of said city, passed [here give date], authorizing said improvements. It shall state the area or the frontage of the property upon which said assessment is based, the name of the owner, as mentioned in said roll, that it was issued by virtue of section 29 of the charter of the city of Houston, and that, as provided in section 24 of said charter, the sum of money for which it is issued is a tax against the owner of and a lien upon the property therein described. That it is payable in [here state the number of] annual installments of [here state the number] dollars each, the first of which is due on the first day of the month next after the work upon which it is issued was accepted by the council, and that each of the remaining installments will become due on the same day in each year thereafter, until all are paid. That the entire amount of principal and interest represented in said certificate bears interest at the rate of six per cent from date until paid, and that failure to pay any installment of principal and interest within six months after the same has become due shall at the option of the person entitled to collect the same cause all subsequent installments to mature, and authorize the foreclosure of the lien for all such installments. Said certificates shall be issued by series and numbers, and be dated the first day of the month next after the work upon which they were issued was accepted by the city council, and may have attached to them as many coupons as there are installments to be provided for, each of which shall show the date, number, and series of the certificates, the amount of principal and the amount of interest which it represents, and the date when it becomes due.

SEC. 30. When the resolution passed, as authorized by section 24 of this act, shall provide that the work of improvement to be done thereunder may be paid for in bonds of the city of Houston, the city council, before bids have been advertised therefor, may, by ordinance duly passed by a two-thirds vote of all the aldermen elected, provide for the issuance

of street improvement bonds. Said ordinance shall refer to said resolution by caption and date of passage, state the probable cost of said improvement as estimated by the city engineer, and authorize the mayor to have prepared bonds to that amount and of such denominations as may be deemed most convenient. Said bonds to run ten years, bear interest not to exceed six per cent per annum, with coupons therefor attached, and to be secured by lien, as hereinafter provided, upon special assessments for such street improvements. After the bonds have been so prepared, bids may be advertised for said work, to be paid for either in cash or in said bonds, the bidder to state the price of the work in each, and the city reserving the option, at the completion and acceptance by the city council of any installment of said work, of paying for the same or any part thereof either in cash or in said bonds, at the price named in said bid; and upon the execution in good faith of a contract for the work authorized in said resolution, and not until then, said bonds may be sold, but in no event to be sold for less than par. The special assessments against any property improved under the first resolution of the city council, as aforesaid, which shall be passed after the passage of this act, shall constitute a special street improvement fund, to which fund the special assessments against other property for improvements made under subsequent resolutions of said city council providing for similar improvements shall, from time to time, be added, incorporated into, and constitute part of said improvement fund, which fund shall be applied exclusively to the payment for such improvements; and the bonds issued therefor, under whichever resolution made, and each and all such bonds, shall be a lien and charge against so much of said fund as is equal in amount to the entire amount of said bonds and accrued interest at any time outstanding. All special assessments for such improvements shall be collected by the city treasurer, by suit if necessary, directly from the assessment rolls, and be noted thereon and receipted for by him under seal of the city, and under no circumstances shall any abatement of principal or interest be made in favor of any person or property liable therefor on said rolls. All such collections as made, with a statement of the rolls upon which they were made, together with the proceeds of the sale of said bonds, and the amount of such bonds, and also a statement of the amount of bonds paid out towards the payment for any such improvement, shall be by the said treasurer at once deposited with some bank in the city of Houston, to be designated by the city council as the trustee of said fund. The city secretary shall also, from time to time, as such assessment rolls are approved by the city council, furnish to said trustee a certified statement, under the seal of the city, of the amount of such rolls, and under what resolutions the work embraced in said rolls was done; and under no circumstances shall said trustee pay any draft upon said fund which will have the effect of reducing the amount thereof, including cash in the hands of said trustee and the uncollected assessments on said rolls, to an amount aggregating less than the total amount of such improvement bonds then outstanding. Any excess of said fund over that amount, however, may be drawn out under authority of the city council, by check of the city treasurer, countersigned by the mayor and finance committee of said city; and after paying therefrom the matured interest on any of such bonds outstanding, under whichever of said resolutions the same were issued, the remainder shall be applied in payment for the work being

done under either of said resolutions, as the same is accepted by the city council, and to no other purpose whatever. Said city council may, in its discretion, provide by ordinance for the collection of said special assessments by the city treasurer by advertisement and sale in the same manner, so far as practicable, as in the case of general taxes levied by said city; and in such event all the provisions of said city charter relative to the collection of taxes and proceedings had in reference to tax sales under the same shall be applicable.

SEC. 31. There shall be appointed by the mayor and confirmed by the city council three citizens of the city, who shall constitute a board of public works. They shall hold their office for two years and until their successors are appointed, and shall serve gratuitously. They shall be allowed, however, \$500 annually, or so much thereof as may be necessary, to cover any expense incurred in the performance of their duties. All matters pertaining to public improvements involving an outlay of as much as \$500 shall be referred to said board before they are finally approved by the council; and they shall, within ten days thereafter, make their report thereon, with such recommendations as they may deem expedient. They shall examine and pass upon all plans and specifications relating to such improvements, and on all bids for the work embraced therein; and after the completion of any such work shall examine and report whether the same has been completed according to contract; and no plans or specifications for any such work shall be adopted, bids accepted, contracts awarded, or work accepted for any such improvement until the report of said board in reference to said matters shall have been received by the council, or until after the expiration of ten days after the matter was referred to them. Said board may also originate and suggest public improvements, and prepare and recommend plans therefor, including all matters pertaining to their construction.

SEC. 32. The city council shall have authority, by ordinance or resolution, to order the repair of any sidewalk or curb wall in front of any private property; to order the filling up or draining any property where water is liable to accumulate and become stagnant; to order the proper and permanent connection of sinks and water closets with the public sewers, the removal of privies, and the filling up of cesspools; to order the cutting of weeds and tall grass on private property and on the adjacent sidewalks; to establish, regulate, and control cemeteries; to locate and regulate the management of slaughter pens; and generally to order and control the doing of any work of a sanitary character which may be deemed necessary on or about any premises within the limits of the city of Houston, and to prescribe the time within which the same shall be done. On the passage of any such ordinance or resolution, the same shall be published at least four days in some daily newspaper published in said city; and it shall thereupon be the duty of the owners of the premises on which work of the character named in said ordinance or resolution is ordered to be done, or the owner of the lot or tract of land when not divided into lots, abutting upon the street at the place where the repairing or construction of sidewalks or curb walls is ordered, to comply with the directions and orders contained in such resolution, and perform or cause to be performed on such premises or adjacent to the same the work therein directed to be done, within the period prescribed in said resolution, to the satisfaction of the city engineer or such other officials as may be provided for by the ordinances of said city, in accordance with such instructions

as may, on application, be given by such official, when all needful instructions shall not be contained in the resolution itself. And should any said property owner fail or neglect to comply with the requirements of such resolution before the lapse of the period therein prescribed, within thirty days after his or her attention shall have been called to said resolution by any officer of the city, by mail or otherwise, or within thirty days after the lapse of said period, to be prescribed in the said resolution, and after the publication of the same, when such owner or his residence is unknown to the mayor, then the mayor may order the work to be done by some official of the city, who shall keep a correct account of the cost of the same, and the cost and expense of doing such work, when done by the city, together with six per cent in addition thereto as a penalty, shall be a tax and charge against the person or persons owning the lot or tract of land on which such work may be done, or abutting upon the street or highway at the place where such work is done, and a lien and incumbrance upon the land itself; and such tax and charge against said property owner shall be due on completion of the work, and shall be collected promptly by the city assessor and collector, and if not paid within thirty days thereafter, after becoming due, the same may be collected, with six per cent interest per annum, and the lien foreclosed in any court having jurisdiction. An itemized bill, or statement of the cost of the work, when done by the city under the provisions of this section, after being duly sworn to by the officer under whose direction the work has been done, and after being approved by the mayor, shall be prima facie evidence in any court of the performance of the work stated in such bill, at the cost therein stated, and compliance with all the provisions of this act, and that the amount stated is a just charge and tax against the property owner therein named, and a lien upon the property described as shown therein, subject to such correction as to such court shall seem meet and proper.

Sec. 33. The city council is hereby authorized and empowered to take and condemn land and real estate within the corporate limits of said city to the public use for streets, alleys, and highways, and for extending and widening the same; and for public wharves and landing places for steamers and other crafts; for public schools and for public squares, parks, and pleasure grounds. For the condemnation of any land or real estate, the following proceedings shall be had: The city council shall pass a resolution describing by metes and bounds the land to be condemned, stating for what public purpose it is intended to be used, and thereupon the provisions contained in articles 4183 to 4205a, inclusive, of the Revised Civil Statutes of the State of Texas, A. D. 1879, relating to the condemnation of lands by railway companies, shall regulate and control the proceedings had and taken by said city for condemnation purposes, so far as applicable. After the passage of a resolution of the character next above mentioned, and after proceedings have been had thereunder for the condemnation of any real estate, and after the cost of condemning and obtaining title to the land in question shall have been ascertained, it shall be the duty of the mayor to appoint three disinterested and competent persons, whose appointment shall be confirmed by the city council, who shall act as special assessment and apportionment committee. It shall be the duty of said committee to view the neighborhood and premises in question, and under their instructions a map shall be prepared by the city engineer, embracing

the territory in which, in their opinion, land has been or will be benefited or enhanced in value by the improvement for which said condemnation proceedings shall have [been] had. The city engineer shall also prepare, in connection with said map, a roll of ownership, showing the number of lots, blocks, or tracts of land when not divided into lots and blocks, in the said territory above referred to, the name or names of the owner or owners of such lot, block, or tract of land, if known to the said city engineer, and if unknown it shall be so stated, and the area of such lot, part lot, block, or tract of land. Said apportionment committee shall thereupon assess and apportion two-thirds of the entire expenses incurred by the city, or such parts thereof as the city council, in its discretion, may determine, not exceeding two-thirds, in obtaining title to the property condemned, against such owners, according to the benefit conferred or to be derived from the improvement contemplated by such condemnation, taking into account the respective areas and locations of the different tracts of lands, and the distances of the same from the property condemned, which sums thus assessed and carried out on the said roll against the respective lots, blocks, or tracts of land therein named shall be a tax and charge against the person or persons owning the same at the time of the final approval of said roll by the city council, and a lien and encumbrance against the land itself, which tax and charge may be collected and the lien upon the property foreclosed in any court having jurisdiction. The city engineer shall endorse on said roll a certificate in substance as follows: "I certify that the foregoing roll of ownership and assessment sheet is correct," and he shall sign his name to the same; and said apportionment committee shall make and endorse thereon an affidavit in form and substance as follows: "We, the undersigned apportionment committee, do solemnly swear that we have justly, impartially, and to the best of our ability prepared, and caused to be prepared, the above and foregoing assessment roll, and the same is, to the best of our knowledge and belief, correct and fair." It shall thereupon be the duty of the city attorney to examine said roll of ownership, and the same shall not be submitted to the city council for approval until he shall have certified that said roll is in due form, as required by the city charter. Said roll of ownership shall then be deposited with the city secretary, and notice of its filing, calling attention to the fact that a special tax assessment has been made against the property embraced in said roll to pay the cost and expenses of condemning the property, shall be published in some newspaper published in Houston for five successive days; and where the owner or owners of any property embraced in said roll of ownership are unknown, it shall be the duty of the city secretary to send, through the United States mails, written or printed notices, in substance the same as is required to be published; and the same proceedings shall be had in regard to said roll of ownership, and in regard to its approval by the city council, and in regard to corrections and changes being made in same, and in regard to the division of assessments therein named into installments, and the collection of the same by the city, and in regard to all other matters pertinent thereto, as have hereinbefore been provided for in reference to special assessments for streets, sidewalks, sewerage, and drainage improvements, as far applicable; and all the provisions of this act relative to such special assessments shall be equally applicable to the special assessments levied to cover the cost and expense of condemning land, so far

as may be practicable, and the city council of the city of Houston shall pass such ordinances as may be necessary to supply all deficiencies in respect thereto.

SEC. 34. That said city council are hereby authorized, and it is hereby declared to be their duty, in all cases where special tax assessments for public improvements, or improvement certificates issued in payment for the same, which may be declared void by any court of last resort by reason of the want of power or authority to make or issue the same, or by reason of noncompliance with any of the provisions of the charter of said city existing at the time, whether of a jurisdictional character or otherwise, at any time thereafter, to reassess and relevy the amount of such assessment or taxes so declared void, and to collect and authorize the collection of the same in the same manner as though such assessment or certificate had been originally valid. The reassessment or relevy of any general tax or special assessment may be made directly by the city council, or in such mode as to them may seem meet and proper, nor shall any person whatsoever be heard to complain of the manner and form of such reassessment, or of the result thereof, unless he can show substantial injury to himself therefrom accruing, and in such event only to the extent of the injury or loss shown; and the provisions of this section and of the next preceding sections of this act, from section 24 to section 33 inclusive, shall be liberally construed in favor of said city, or in favor of the contractor doing said work, or persons holding under him, to the end that in all cases the payment of both general taxes and special tax assessment may be rigidly and impartially enforced: *Provided*, that this act shall not validate any certificate heretofore issued, nor shall such certificate be reissued, nor shall any roll of ownership ever be approved for improvements made prior to this act, except contracts now pending.

SEC. 35. If the purchaser at any tax sale, or at any sale under proceedings had to foreclose a tax lien on property sold in the city of Houston for non-payment of general taxes or special tax assessments by said city, shall fail to acquire a valid title to the property so purchased by him, by reason of any irregularity or defect in the assessment or levy, or for any other reason whatsoever, whether of a jurisdictional character or otherwise, such purchaser shall nevertheless have a lien on the property so purchased for the taxes which would have been due on the same had all proceedings in reference thereto been legal and regular, together with all costs connected therewith; also for all taxes, both general and special, by him subsequently paid on said property, with interest on all of such sums at the rate of eight per cent per annum; and he shall be entitled to judgment for such amounts and for the enforcement of the lien against the owner of said property in the same action wherein the inability [invalidity] of said tax sale or the sale under foreclosure of the tax lien is declared void, together with his costs incurred in such action.

SEC. 36. The city council shall have power and authority to secure the safety and convenience of passing in the streets, sidewalks, and other places in the city, to fix the squaring and to prevent encroachments and obstructions on the streets, sidewalks, squares, ways, levees, public roads and places; to fix the place for the anchoring of water craft on Buffalo bayou; to establish an active system of inspection over the conduct of persons and premises; to prevent cattle, horses, swine, goats, geese, and animals from running at large in the streets or within such

prescribed limits as may be established by the city council; to establish and maintain a city police, prescribe the duties of policemen and regulate their conduct; to provide for lighting the streets by gas, electricity, or other means, and for this purpose may establish gas works or electric works for the manufacture of gas or electricity for the use of the city and the inhabitants thereof at cost price; to determine in what part of the city slaughter houses, bone boilers, soap makers, brick yards, or other establishments of any business which is or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupants of adjacent property, shall not be allowed to be carried on or to be erected, and to regulate the same, and provide for the removal of such establishments; to determine in what part of the city wooden buildings shall not be erected; within the limits prescribed, no person shall be permitted to erect such buildings; to prevent gunpowder or other explosive material, kerosene oil or other inflammable oils being stored within the city limits in such quantity as to endanger the safety of adjacent property; to provide means for the protection against and the extinguishment of conflagrations, and for the regulation, maintenance, and support of a fire department; to permit or forbid theaters, balls, or other public amusements, and to suppress the same whenever the preservation of order, tranquility, or public safety may require; to close dram shops, drinking saloons, and other places where intoxicating liquors are sold, and variety theaters, whenever necessary or expedient; to define what shall be a nuisance in said city, and to abate them by summary proceedings; to prohibit the burial of the dead within the limits of the city, and to regulate such burial when allowed; to prohibit and punish keepers and inmates of bawdy houses and variety shows, and to segregate and regulate the same, and to determine such inmates and keepers to be vagrants, and provide the punishment of such persons; to provide a work house for vagrants and disorderly persons who are unable to pay fines, and to make regulations concerning the same; to regulate weights and measures, fix standards of weight and measure, and to fix penalties for not using the same; to provide and keep a city prison; to make all needful and proper regulations concerning bakers, butchers, keepers of taverns, grog shops, and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers, and drivers of baggage wagons, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains; to prevent extortion by carriers of passengers or baggage, hacks, drays, and all public conveyances by establishing maximum rates of charges; to suppress gambling houses, and to punish keepers of gambling houses, and all persons who play at cards or games of any kind, and to punish persons who sell lottery tickets, or who advertise lottery drawings or schemes and the results of the drawings of lotteries; to direct and control the laying and construction of railroad tracks, turnouts, and switches, and that they be required to be constructed and laid out so as to interfere as little as possible with the ordinary travel and use of the streets; to require railway companies to keep the streets through which they run in repair, and to light the same whenever deemed necessary; to construct and keep in repair bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers, and culverts on the line of the railways; to regulate

the speed of engines and locomotives within the city; and generally to make and establish all rules, regulations, by-laws, and ordinances which may contribute to and promote the better administration of the officers of the said city, as well for the maintenance of the peace, tranquility of said city, and for the protection of the persons and property of its inhabitants. The city council shall also have power to pass ordinances authorizing the destroying of clothing, bedding, furniture, and buildings infected with the germs of any contagious or infectious disease, when in the opinion of the city health officer the public health requires the destruction of the same, and may also, in the same manner, authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance by the city council: *Provided*, the city shall pay the value of such property to the owners thereof before destroying the same. The city shall have power to enforce the observance of ordinances adopted by the city council, either by imposition of penalties to be collected by civil proceedings in suits brought by the city or by fine and imprisonment, as may be deemed most expedient: *Provided, however*, that no penalty imposed for the violation of any ordinance shall exceed the sum of two hundred dollars, and there shall be only one recovery had for all acts committed previous to the institution of a suit for the recovery of such penalties; and any person or corporation violating an ordinance of the city of Houston, to enforce the observance of which a penalty may have been imposed in lieu of a fine, shall be liable to the city in a civil suit, brought for the amount of such penalty in either of the justice courts of precinct No. 1 in Harris county, Texas; and it shall be the duty of the city council, within six months after the passage of this charter, to have compiled, printed, and published in book form, convenient of access by all citizens, all the ordinances of the city which may at the time be in force; and all such ordinances not so published shall thereafter become void; nor shall any ordinance hereafter passed take effect or be in force until the same has been published in some newspaper in said city.

SEC. 37. No person shall erect any building or fence in the city without first obtaining a permit from the mayor and having the lines of his property established by the city engineer: *Provided*, that fences may be constructed on interior lines without such permit, and the lines of property not subdivided into lots or blocks may be established and fences built thereon without such permit; but all permits for building houses or fences shall be issued by the mayor or city engineer free of charge.

SEC. 38. The city council may provide, own, and maintain water works for the use of the city and the inhabitants; and for this purpose may issue and cause to be issued the bonds of the city in such sums as may be requisite and necessary, which bonds shall bear interest at the rate of not exceeding six per cent, and shall not be sold at less than par. The city council, by resolution, shall fix the denomination of such bonds and the date of their maturity: *Provided*, that no such bonds shall be issued or sold until a plant of sufficient capacity has been contracted for, and then only a sufficient number of bonds shall be issued to cover the actual cost of construction or purchase. In like manner the city council may establish gas works or electric works, or both, in the discretion of the council, and may issue the bonds of the city of Houston in like manner and under

like restrictions as provided in this section for the establishing of water works.

SEC. 39. The city council shall have authority, by ordinance duly passed or enacted, to provide for a system of public free schools and for a public library in the city of Houston, and to this end may make appropriations of the revenues of the city in amounts within the discretion of the council, and may receive donations of books, papers, magazines, periodicals, or other property or money for the benefit of and maintenance of such public library.

SEC. 40. It shall be the duty of the mayor, at the last meeting of the city council held in January of each and every year, to present to the city council a message containing a statement of the financial condition of the city, including an itemized estimate of the cost of maintaining the various departments of the city government for the ensuing year, and the sums of money which, in his opinion, should be appropriated for the maintenance of such respective departments, together with his recommendations in regard to such appropriation, and in regard to the percentage of taxation and amount of occupation tax necessary to be levied for such ensuing year. It shall be the duty of the city council at its first meeting in February of each and every year to appropriate such sums of money respectively for each of the various departments of the city government as said council shall deem necessary for the proper maintenance of the same during the current year. Such current year shall be deemed to begin on the first day of January previous to such meeting, and to end on the 31st day of December next thereafter. Said council at said meeting shall accordingly appropriate a certain sum of money for the use of each of the following departments of said city government, to-wit: Public school department, police department, fire department, street department, bridge [bridge] department, public health department, salaries of officials not included in appropriations for the foregoing departments, public lights, water works, and such other departments as it may be deemed proper to mention, together with an appropriation for the sum deemed necessary to cover all miscellaneous expenses not mentioned under the head of any special department; and it shall be the duty of the city secretary to keep a separate account with each of such departments, and he shall be prepared at every regular meeting of the city council to give information as to the amount expended and the balance remaining to the credit of any department; and no draft shall be drawn upon or paid by the city treasurer unless the same shows on its face to which of said departments the sum of money named in the same should be charged.

SEC. 41. That the council shall have power and authority to establish one or more markets and market places, and within reasonable hours, not later than 10 o'clock daily, to prevent the sale of fresh meats, game, fresh fish, poultry, eggs, vegetables, and such country produce as is usually sold in markets at any place in said city other than said markets and market places so established, and to collect market licenses and privileges; to rent and lease for such length of time as the city council may determine, not exceeding one year, stalls or stands in said market for the sale of the before mentioned articles, and to regulate and fix the prices at which said stands or stalls shall be rented, and to provide for prompt collection of rent of the same, and to pay all expenses of collection thereof, and for properly caring for and keeping in repair the market building, and for

pavement of streets fronting on and adjacent thereto, and for insurance of the same and its contents; and such care, paving, insurance, and general keeping of said market houses shall be paid for out of the revenues collected out of said market houses.

SEC. 42. That the market and market privileges of said city may be let and farmed out annually to the highest bidder, at public outcry, at the market house, after ten days notice of the time, place, and terms shall have been published in one of the city papers, and two copies posted in conspicuous places in said market house. The city council shall, before the day of letting, fix upon the minimum sum at which the market and market privileges may be leased for the ensuing year, and publish the same in the public notices required to be given as herein provided, and all bids below the amount named shall be rejected. At least five days before the day advertised for the letting, the mayor shall cause to be prepared the contract required to be signed by the lessees, and the same shall not in any manner be changed or modified within the five days previous to the letting, and said contract, so prepared, shall be open, at the mayor's office, to the inspection of all parties who may desire to see it. A good bond and securities, to be approved by the city council, shall be required of the lessees, and new additional securities may be required at any time, under penalty of forfeiture of contract.

SEC. 43. That the city council may appropriate to such use and purposes as may be deemed advisable such halls and rooms in the upper story of the market house as may not be necessary for public use, and to lease and rent the same from time to time, in the discretion of the council.

SEC. 44. That the city council shall have the power to construct wharves on the banks of Buffalo bayou, within the limits of the corporation, and make such other improvements as may be necessary for the better navigation of said bayou, and for convenience of landing vessels and their cargoes; and to levy contribution upon all such vessels and their cargoes as may land at said wharves, and to demand and collect the same, to defray the expenses of such improvements and repairs.

SEC. 45. That whenever any steamboat or other craft shall sink in the Buffalo bayou above Harrisburg, and the navigation be obstructed thereby, it shall be the duty of the mayor of the city of Houston to appoint three good and discreet commissioners to inspect and examine the same and its condition, and immediately to report, in writing, their opinion, stating whether, in their opinion, the boat or craft sunk can be or is likely to be raised or removed within the space of ten days after their examination; and should they be of opinion that such boat or craft is not likely to be raised so as to open the navigation within twenty days from the time of their examination, then and in that case the mayor and aldermen of the city of Houston may order the removal of such boat or craft so sunk in any manner they shall deem proper, without incurring any penalty for the same.

SEC. 46. That said corporation of the city of Houston is hereby given full power and authority to take such steps to preserve and improve the navigation of the said Buffalo bayou above the town of Harrisburg as they may think proper, and for that purpose they are authorized to levy and collect a tax on all steamboats and other craft running in said bayou to the city of Houston, for the purpose of improving the navigation thereof: *Provided*, that the power in this section shall not be construed

to give said corporation any jurisdiction or control over said Buffalo bayou or the banks thereof, in any manner, beyond or without the corporate limits of said city, except for the purpose of protecting or improving the navigation of said bayou, and shall not give said corporation jurisdiction or control to prevent or interfere with the construction of any railroad or other bridges, by any company or person, across said bayou in such manner as not to interfere with the navigation of said bayou.

SEC. 47. That the city council, by a vote of the majority of the whole number of aldermen, taken by yeas and nays and entered upon the journal, shall have power to assess, license, and tax hawkers, peddlers, auctioneers, theatrical and other exhibitions, shows, and amusements, billiard tables, nine and ten pin alleys, alleys with any number of pins, public drays, wagons, omnibuses, and carriages, grog shops, tippling houses, and dram shops, beer saloons (whether for the sale of domestic beer or otherwise), and such other trades or occupations not especially mentioned herein as may be taxed by the laws of the State; but no assessment or license tax levied under this section shall exceed one-half the amount levied by the State for the same period on such profession or occupation, and the same may be regulated, levied, and collected in the same manner as said taxes are regulated and collected by the State.

SEC. 48. The city council may continue annually to assess, levy, and collect the special tax provided by ordinance passed by the city council of said city on the 2d day of June, A. D. 1888, for the purpose of paying the interest and principal of the various outstanding bonds issued by the city of Houston, and may by ordinance assess, levy, and collect annually upon all property, real and personal, in the city of Houston not exempt from taxation such additional tax, not exceeding one and one-half per cent ad valorem, as the interest of the city may require, for other purposes. It may also determine when taxes shall be paid by corporations or by individual incorporators, and levy, assess, and collect from each male citizen of the city over the age of twenty-one years an annual poll tax of one dollar. All taxes upon real estate shall be a lien and charge upon the property, which lien may be foreclosed and the tax collected by suit in any court having jurisdiction. All taxes not paid within the time prescribed by the ordinances shall bear interest at the rate of ten per cent per annum. All real and personal property held, owned, or situated in the city of Houston shall be liable for all taxes due by the owners thereof, including taxes on real estate, personal property, and poll tax, and all personal property may be levied upon, seized, and sold by the assessor and collector for any taxes that may be due, without further warrant of authority than the production of his tax roll, which sale, when made, shall convey a perfect title to the purchaser thereof. It shall be the duty of every person owning or holding property in the city of Houston to render to the assessor and collector of taxes at his office in said city, annually, within the time prescribed by the ordinances of said city, a full and complete inventory of all property so owned or held by him, whether real or personal, and to take and subscribe an oath as to the correctness of such inventory, which oath may be administered by the assessor and collector in person or by deputy. All taxes shall be payable at the office of the assessor and collector, and no demand by him be requisite or necessary to enforce the collection thereof by any proceedings

herein prescribed. The assessor and collector shall inventory and assess all property which the owners thereof may fail or refuse or may have failed or refused to inventory and assess for previous year, which inventory and assessment, when so made by him, shall be as valid and effective as if made by the owner thereof.

SEC. 49. That the license tax shall be collected by the assessor and collector of taxes, and shall be paid to that officer in current funds of the United States, by each and every person or firm owning [owing] such license, and before engaging in any trade, profession, business, calling, avocation, or occupation subject to such tax, taking his receipt therefor, which receipt shall entitle him, her, or them to a corresponding license, to be issued by the mayor; and if any person shall engage in any business, calling, avocation, or occupation, which by an ordinance of said city is subject to a license tax, without first having obtained such license, he, she, or they shall be liable to arrest and imprisonment and a fine of ten dollars for each and every day such violation of said ordinance may continue; and this section shall apply to all persons owing license and failing to pay the same; and the city council may make such further regulations as it deems necessary to enforce the provisions of this section and punish the violation thereof.

SEC. 50. That the city council may and shall have full power to provide, by ordinance, for the prompt collection of all taxes levied, assessed, and due or becoming due to said city, and to that end may and shall deem necessary to the levying, laying, imposing, assessing, and collecting of any of said taxes, and to regulate the mode and manner of making out tax lists, and inventories and the appraisalment of property thereon, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to fix the duties and define the power of the assessor and collector of taxes. All taxes due by property owners, as appears upon the rolls of said city, and upon the rolls prepared and completed up to the first day of July, 1889, may be collected by suit from delinquents, and foreclosure of the lien thereon in any court having jurisdiction of the same, but no suit shall be brought for taxes assessed after the first day of July, 1889. The city council shall have full power and authority to provide, by ordinance, for the appointment of a board of appraisalment, and to regulate their duties, and to provide for notices to be given to tax payers to appear before such appraisers; and all determinations of such appraisers shall be final. The city council shall have full power and authority to provide for seizure by the assessor and collector and sale by him of any personal property for taxes due on personal property, without the necessity of any writ, and such tax roll shall be a sufficient warrant for such seizure and sale by the assessor and collector of taxes. And to provide, by ordinance, that any firm, corporation, or person owing [owning] or controlling property in said city subject to a tax, and failing or refusing to render a list, inventory, or appraisalment thereof, verified by affidavits, shall be liable to fine, upon complaint before the recorder, in such sum as such ordinance may provide. The city council shall have full power and authority to pass all ordinances necessary to regulate advertisements and sales by the assessor and collector of property upon which taxes may be unpaid, and to provide for the perpetuation of all proceedings with reference to such

advertisement and sale, and for the execution of titles to purchasers of property at tax sales, and to pass all ordinances necessary to enforce the collection of taxes: *Provided*, that such ordinances shall allow any person whose real property has been sold for taxes at least one year to redeem the same, by paying such tax and fifty per cent thereon, and all costs of advertisement and sale: *And provided further*, that any of such proceedings so perpetuated shall be received in evidence in any court, when the titles so conferred by the collector shall be called in question; and the city may become the purchaser of any land sold for taxes, and the deed executed by the assessor and collector shall be prima facie evidence that all the prerequisites of the law have been complied with; and the city, or any other purchaser of property at a tax sale, may sue for and recover such real property after the expiration of the time allowed to redeem the same, and no defense to any suit for such property shall be allowed, unless there first be made a tender, in open court, of the amount of tax for which the same was sold, together with the fifty per cent additional and all costs of sale and cost of suit. At any time after the sale of any property to the city, or to any person, of property for the taxes due thereon, and before the expiration of twelve months after such sale, the city, or such person, as the case may be, may institute suit for the amount of such tax, and for fifty per cent added, and may foreclose the lien existing for such tax that existed in favor of the city at the date of such sale. Nothing but current money of the United States shall be collected or received in payment of taxes and licenses due or hereafter assessed, and scrip which may be issued for pavement of streets and construction of sidewalks, which shall express upon its face the purpose for which it is issued, and coupons and scrip made receivable for taxes on the face thereof, shall not be receiveable for all taxes, except the bond tax. The city council shall have power and authority to assess and collect a tax on all vehicles belonging to persons residing in said city, or which may be used for traffic or hire in said city, which shall be known as a wheel tax, and require such owners to obtain a license for such vehicles, and to prescribe a penalty for using any vehicle on the streets of the city without payment of such tax and procuring such license, but such tax shall not exceed two dollars per wheel: *And provided*, that all such vehicles licensed under the ordinances in force in said city shall not be required to pay such wheel tax. All sums collected for such wheel tax shall be kept separate by the collector of taxes and shall be applied and expended exclusively for the pavement of intersections of streets as provided for herein.

SEC. 51. The city council may, by resolution, provide for the payment of taxes at any time before such taxes shall become due, and may allow interest upon advance payment of taxes at a rate not to exceed six per cent per annum for the time intervening between the time of such payment and the time when such taxes would be due and payable: *Provided*, that no such resolution shall be passed, nor such interest allowed, except for the purpose of raising money to meet the current expenses of the city for legitimate purposes. Such resolution shall state the amount of money sought to be raised by this means, and when said amount has been received, the assessor and collector shall immediately notify the mayor and city council that the amount called for in the resolution has been received, and the city shall not pay interest on moneys subsequently

paid in for taxes of that year. In receiving moneys for taxes in advance, under the resolution provided for herein, the assessor and collector shall allow the tax payer to retain out of such payment the amount of interest allowed thereon, and shall give his receipt for the whole amount, showing what sum is actually paid in and what sum is allowed as interest on such payment.

SEC. 52. That the said corporation shall not be liable to any person for damages for injuries caused from streets, ways, crossings, bridges, or sidewalks being out of repair from gross negligence of said corporation, unless the same shall have remained so for ten days after special notice, in writing, given to the mayor or street commissioner.

SEC. 53. That it shall not be necessary in any action, suit, or proceedings in which the city of Houston shall be a party that any bond or security shall be given, but all actions, suits, or proceedings shall be conducted as if such bond or security had been given; and in all judicial proceedings it shall be sufficient to plead any ordinance of the city by caption without embodying the entire ordinance in the pleadings, and all printed ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. The property, real and personal, belonging to the city, shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city, in the hands of any person, be liable to garnishment, nor shall the city, or any of its officers or agents, be required to answer any writ of garnishment.

SEC. 54. That the following property shall be exempt from taxation, to-wit: All lands used exclusively for graveyards, or grounds for burying the dead, except such as are held by any person, company, or corporation with a view to profit or for the purpose of speculation in the sale thereof; all buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining such institutions, together with such other property as is exempt from taxation by the laws of the State of Texas.

SEC. 55. That no person shall be an incompetent judge, justice, witness, or juror by reason of his being an inhabitant or freeholder in the city of Houston, in any action or proceeding in which said city may be a party interested; and all officers of said city shall be exempt from jury service while holding office.

SEC. 56. That the city council shall annually appoint, by ballot, one person from each ward of the city, who, together with the mayor as president thereof, shall constitute a board of health of the city. The city council may appoint a health physician, and as many health inspectors as they may deem necessary, and shall prescribe by ordinance the powers and duties of the board and its members; and the secretary of the city council shall be clerk of the board of health, and shall keep a record of their proceedings.

SEC. 57. Quarantine, pest houses, etc. That the city council shall have power to take such measures as they deem effectual to prevent the entrance of any pestilential, contagious, or infectious disease into the city; to stop, detain, and examine for that purpose any person coming from any place infected or believed to be infected with such diseases; to establish, maintain, and regulate pest houses or hospitals within the city,

or not exceeding five miles from its bounds; to cause any person who shall be suspected with any disease to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence; to prevent persons from infected places coming into the city of Houston, and to adopt any sanitary measure whereby the health of the city may be protected and improved; but said corporation shall not have power or authority to prevent railroad trains and passengers therein from passing through the city, but may regulate the speed of such trains passing through, and prevent their stopping.

SEC. 58. That all works of improvements and public works for said city, the cost of which will exceed the sum of one thousand dollars, shall be let out to the lowest or best bidder, in the discretion of the council, by sealed proposals; and no contract shall be made or entered into until the plans and specifications such work or improvement shall have been prepared and submitted to the council and adopted by it, and an advertisement published in at least four issues of some daily paper published in the city, inviting bids therefor, and stating the time when such sealed proposals will be opened: *Provided*, that if no bids be received, or those received be rejected by the city council, the city may, in its discretion, proceed to have such work or improvement done under the discretion [direction] of a committee from the membership. City printing and all repairing of bridges or other similar work, of which it is manifestly impossible to make specifications, are not embraced in this requirement. No bids shall be considered unless made in accordance with the plans and specifications, and no allowance for extra work shall ever be made or paid for. The sealed proposals shall be addressed to the city secretary, and shall be opened only in the presence of the city council at a regular meeting. Bond and security, to be fixed and approved by the city council, shall be required of all contractors. The taking of any contract or interest therein, openly or secretly, directly or indirectly, by any officer of the city, shall, ipso facto, work a forfeiture of the contract, and the consideration thereof, and shall create a vacancy in the office held by the party taking the same.

SEC. 59. The city council shall have power and authority to issue bonds for the purpose of funding bonds of the city of a previous issue, and also for street improvements as provided in section 30 of this act, and in addition thereto may also, by a vote of two-thirds of all the aldermen elected, borrow money on the credit of the city for other purposes to an amount not to exceed one hundred thousand dollars in any one year, and issue bonds of the city therefor. To create a debt during any one year exceeding one hundred thousand dollars, exclusive of refunding and street improvement bonds, as above authorized, the question must be submitted to the tax paying voters of the city, and if two-thirds of the votes polled shall be in favor of creating such debt, it shall be lawful for the city council to authorize the issuance of the bonds for the amount named in the resolution or ordinance submitting the question to the voters. No bonds shall be issued drawing more than six per cent per annum interest, and shall be invalid if sold for less than par, and all bonds shall express upon their face the purpose for which they were issued. The ordinance authorizing any bonds to be issued shall also provide a fund to pay the interest and create a sinking fund of at least two per cent.

thereon, and said sinking fund shall be invested in bonds of the city, or in United States bonds, and neither said interest nor sinking fund shall be diverted to any other purpose whatever.

SEC. 60. That the city council shall make all necessary regulations concerning elections, and provide for officers to conduct the same, and for the examination and counting of the returns of elections.

SEC. 61. That the general election of officers of the city shall take place on the first Monday in April, 1894, and every two years thereafter, and the present incumbents shall hold over until their successors, elected at the first election, shall qualify. No election of city officers shall be held on the day of State or county elections.

SEC. 62. That an act entitled "An act to consolidate in one act, and amend the several acts incorporating the city of Houston, in Harris county," passed August 2, 1870, and all other acts relative to the incorporation of the city of Houston, in conflict with this act, be and the same are hereby repealed; but all property, actions, rights of action, claims, and demands of every nature and kind whatever vested in said corporation under and by virtue of the said laws hereby repealed, shall vest in and remain and enure to the said corporation, under this act, as fully and completely in all respects as if the said laws had not been repealed; and all by-laws and resolutions and ordinances made and passed under or in pursuance of said laws hereby repealed shall continue and remain in full force and effect until repealed by the proper authorities of said corporation.

SEC. 63. That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts. No general law hereafter passed by the Legislature of the State shall be held to repeal any power herein granted, or which is now vested in the corporation of Houston, unless the act conferring such power be specially referred to in such repealing act.

Whereas, there are no adequate laws in force providing for the paving, improving, and repairing of the streets and sidewalks of the city of Houston, there exists an imperative public necessity for suspending the constitutional rule requiring bills to be read on three several days; and an emergency exists which requires this act to take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 24th day of March, A. D. 1893, but was not signed by him, nor returned to the House in which it originated, with his objection thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

EL PASO—AMENDMENT TO CITY CHARTER.

CHAP. 6.—[S. B. No. 262.]—An act to amend sections 14, 89, and 93, of an act entitled "An act to grant a new charter to the city of El Paso," approved March 2, 1889.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That an act entitled "An act to grant a new charter to the city of El Paso,"

approved March 2, 1889, be and the same is hereby amended as follows: That section 14 shall hereafter read as follows:

Section 14. The recorder shall be learned in the law; and the officers and agents of the city, except the aldermen, shall receive for their services such compensation as the city council may ordain. The aldermen shall each receive such a sum, not to exceed five dollars for each session of the city council attended, as the city council may ordain: *Provided*, that no alderman shall receive in any one year more than the sum of three hundred dollars.

That section 89 shall hereafter read as follows:

Section 89. No bonds shall be issued unless the same shall have been ordered by the city council, at a regular meeting thereof, by the consent of two-thirds of the aldermen elected, nor then until the action of the city council has been ratified by a majority of the qualified voters of the city who pay taxes on property in said city, as shown by the last assessment roll, voting at an election held for the purpose of determining whether or not such bonds shall be issued. All bonds shall specify for what purpose they were issued, and shall not be sold for less than their par value; and when any bonds are issued by the city a fund shall be created to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose, and the city treasurer shall honor no drafts on said fund except to pay interest upon or redeem the bonds for which it was provided.

That section 93 shall hereafter read as follows:

Section 93. The city council shall have power by ordinance annually to levy and collect taxes to the amount of two per cent on the assessed value of all property, real and personal, in the city, not exempt from taxation by the Constitution and laws of the State, for the purpose of defraying its current municipal expenses, to pay debts heretofore contracted, to pay interest on and create sinking funds for its bonded debt, to construct or acquire water works, gas works, canals, and public buildings, to improve its streets, and make other permanent and public improvements, and for the support of its public free schools: *Provided*, that no tax shall ever be levied except with the consent of two-thirds of all the aldermen elected, at a regular meeting of the city council.

SEC. 2. This act shall be deemed a public act, and the courts shall take judicial notice hereof at all times and places.

SEC. 3. This act shall take effect and be in force from and after its passage.

SEC. 4. The fact that the city of El Paso must immediately enlarge its system of water works, and make other public improvements, creates an emergency that this act take effect at once; and the near approach of the close of the session creates [an] imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 22d day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect April 2, 1893.]

CHARLES THOMAS SISSON—RELIEF OF.

CHAP. 7.—[S. B. No. 199.] An act for the relief of Charles Thomas Sisson, and making an appropriation therefor.

Whereas, Charles Thomas Sisson enlisted in the service of the State of Texas, under the command of Captain John S. Ford, in the fall of 1858, and served as a soldier in said command for the period of six months, ending in the spring of 1859, under a promise from the State to pay him at the rate of forty dollars per month, for which services the said Charles Thomas Sisson has never been paid, either in whole or in part; and

Whereas, the State of Texas is justly due him the sum of two hundred and forty dollars; therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the sum of two hundred and forty dollars be and the same is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, for the payment of said claim; and the Comptroller of the State of Texas is hereby authorized and directed to issue a warrant upon the Treasurer of the State of Texas, in favor of the said Charles Thomas Sisson, for the said sum of two hundred and forty dollars.

SEC. 2. The near approach of the close of the present session, and the crowded condition of the calendar, render it improbable that this bill can be read on three several days in each house, and creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

F. L. SCHMID—RELIEF OF.

CHAP. 8.—[S. B. No. 255.] An act for the relief of F. L. Schmid, and making an appropriation therefor.

Whereas, F. L. Schmid enlisted in the service of the State of Texas, serving as a member of Company "D," Frontier Battalion, actively until August 16, 1889; and

Whereas, on said 16th day of August, 1889, while in the discharge of his duty as a State ranger, in Richmond, Fort Bend county, Texas, received a gunshot wound, which wound occasioned him three years sickness, and heavy expense, to-wit, as follows:

Professional services \$205. Nurses \$150. Board and lodging \$140. Drugs \$16.20. Railway fare \$73.30. Total \$584.50.

All of which expense has been borne by him. Therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the sum of five hundred and eighty-four dollars and fifty cents (\$584.50) be and the same is hereby appropriated out of any money in the State treasury, not otherwise appropriated, for the payment of said claim, and the Comptroller of the State of Texas is hereby authorized and directed to issue a warrant upon the Treasurer of the State of Texas in favor of said F. L. Schmid for the said sum of \$584.50.

SEC. 2. The crowded condition of the calendar, and the near approach of the close of the session, renders it improbable that this bill can be read on three several days, which creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect April 9, 1893.]

ROADS—CHEROKEE, HOUSTON, ANDERSON, TRINITY, FRANKLIN, DELTA, HARRISON, PANOLA, UPSHUR, SHELBY, SMITH.

CHAP. 9.—[H. B. No. 594.] An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby, and Smith; and auxiliary thereto, to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll tax payers on the public roads of said counties; and to provide adequate penalties for the violation of the provisions of this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all public roads and highways that have heretofore been laid out and established, agreeably to law, in Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties, except such as have been discontinued, are hereby declared to be public roads.

SEC. 2. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Harrison, Panola, Shelby, and Smith counties shall have full power, and it shall be their duty, to order the laying out and opening of public roads, when necessary, and to discontinue or alter any road, whenever it shall be deemed expedient, as hereinafter prescribed.

SEC. 3. It shall be the duty of the commissioners courts to classify all public roads in said counties into first, second, and third class roads.

SEC. 4. First class roads shall be clear of all obstructions, and not less than forty feet nor more than sixty feet wide; all stumps over six inches in diameter to be cut down to six inches of the surface, and rounded off;

all stumps six inches and under to be cut smooth with the ground; and all causeways made at least sixteen feet wide.

SEC. 5. Second class roads shall be clear of all obstructions, and not less than thirty feet wide. Stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made sixteen feet wide.

SEC. 6. Third class roads shall be clear of all obstructions, and not less than twenty feet wide; stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made at least sixteen feet wide.

SEC. 7. The commissioners court shall in no instance grant an order on an application for any new road, or to discontinue an original one, unless the person making application therefor, or some one of them, shall have given at least twenty days' notice, by written advertisement, of their intended application, posted up at the court house door of the county and at two other public places in the vicinity of the route of the proposed new road, or the road proposed to be discontinued.

SEC. 8. All applications for a new road, and all applications to discontinue an existing one, shall be by petition to the commissioners court, signed by at least ten freeholders of the precinct or precincts in which said road is desired to be made or discontinued, specifying in such petition the beginning and termination of such road proposed to be opened or discontinued.

SEC. 9. All roads hereafter ordered to be made shall be laid out by a jury of freeholders of the county, to be appointed by the commissioners court. Said jury shall consist of five persons, a majority of whom may proceed to lay out and mark the road so ordered, to the greatest advantage to the public, and with as little prejudice to enclosures as may be.

SEC. 10. The jurors provided for in the preceding section shall, before proceeding to act as such, take the following oath before some officer authorized to administer oaths, to-wit: I, ———, do solemnly swear that I will lay out the road now directed to be laid out, by the order to us directed from the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge, so help me God.

SEC. 11. It shall be the duty of such jurors, when qualified as provided in the preceding article, to proceed to lay out and mark the road, in accordance with the order of the court and the law, and to report their proceedings in writing to the next regular term of the commissioners court.

SEC. 12. No public road shall be surveyed or laid out upon or across any farm, lot, or enclosure without first obtaining the written consent of the owner or his agent or attorney to the same, except as hereinafter provided.

SEC. 13. If such written consent shall be refused, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to view the same, assess the damages incidental to the opening of the road of the first, second, or third class, through any part of said farm, lot, or inclosure, as proposed, taking into consideration the advantages and dis-

advantages accruing to such owner from the opening of such road, and report their action in writing, and under oath, to the next regular term of the commissioners court.

SEC. 14. If the owner of any inclosed land, his agent, or attorney, shall file in the commissioners court a written protest against opening a road, viewed and marked out through such inclosed land, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to view said road, assess the damages, and report in manner and form as provided in the preceding article.

SEC. 15. If, in the judgment of the commissioners court, from the report of the commissioners named in the two preceding sections, the road should be deemed of sufficient importance, the court may order the survey or opening of the same; but the court shall first order the payment of the damages assessed, if any, by the commissioners of view, to be made to the owner of the land, out of the county treasury, and the county treasurer shall have paid the same, or secured its payment, by a special deposit of the amount in his office, subject to the order of such owner, and shall notify such owner by mail or otherwise, of such deposit.

SEC. 16. If no objection be filed, upon the report of a jury appointed upon an application to open a new road, the court shall proceed to establish and classify such road, and order the opening out of the same, and shall appoint an overseer and apportion hands for the same, as in other cases.

SEC. 17. The commissioners court may alter or change the course of any public road, after notice, and upon application in the same manner as provided in this chapter for the discontinuance of a road, except that the application need not be signed by more than one freeholder of the precinct in which such alteration or change is proposed to be made.

SEC. 18. When juries of view are appointed, it shall be the duty of the clerk of the court to make out copies of the order appointing them, in duplicate, and to deliver such copies to the sheriff of the county within ten days after such order of appointment was made, indorsing on such copies the date of such order.

SEC. 19. The sheriff receiving such copies shall serve the same upon the jurors by delivering to each of them, in person, a copy of the order of appointment provided for in the preceding article, or by leaving one of said copies at the usual place of abode of such juror. Service shall be made within twenty days after the sheriff receives said copies, and he shall make his return to the clerk on the duplicate copies, stating the date and manner of service, or, if service has not been made, stating the cause of his failure to make the same.

SEC. 20. Any juror of view, summoned as such, who shall fail or refuse to perform the service required of him by law as such juror, shall forfeit and pay for every such failure the sum of ten dollars, to be recovered by judgment, on motion of the district or county attorney, in the name of the county, in any court of competent jurisdiction of the county in which such defaulter may reside.

SEC. 21. For the further and better providing for public roads, any lines between different persons or owners of land may, upon the condition provided for in the following sections, be declared public highways, and left open and free from all obstructions for ten feet on either side of said

lines; but the marked trees and other objects used to designate said lines, and the corners of surveys, shall not be removed or defaced.

SEC. 22. Whenever ten freeholders may desire the boundary lines between different persons or owners of land to be declared a public highway, in order to give them a nearer, better, or more practicable road to their church, county seat, mill, timber, or water, they may apply to the commissioners court for an order establishing such road.

SEC. 23. The application provided for in the preceding section shall be in writing, and shall be signed and sworn to by the applicants. It shall designate the lines sought to be opened, and the names and residences of the persons or owners to be affected by such proposed road, and shall state the facts which show the necessity for such road.

SEC. 24. Upon the filing of such application, the clerk shall issue a notice reciting the substance thereof, directed to the sheriff or any constable of the county, commanding him to summon the owners of the land, naming them, whose lines are proposed to be left open, to appear at the next regular term of the commissioners court and show cause why said lines should not be declared public highways.

SEC. 25. The notice provided for in the preceding section shall be served in the manner and for the length of time provided for the service of citation in civil actions in justices' courts, and shall be returned in like manner as such citations.

SEC. 26. At a regular term of the court, after due service of notice, as provided in the preceding section, the commissioners court may in its discretion, should it deem the road of sufficient public importance, issue an order declaring the lines designated in the application to be public highways, and direct that the same be opened by the owners thereof, and left open for the space of ten feet on each side of said lines.

SEC. 27. When an order as provided in the preceding section is made, the clerk shall, without delay, issue a notice reciting said order or its substance, directed to the sheriff or any constable of the county, commanding him to serve the owners of such lines named in such notice with a true copy thereof, and the officer to whom said notice is delivered shall, without delay, serve the same as therein directed, and return the same to the clerk, endorsing thereon the manner and date of such service.

SEC. 28. The commissioners court shall not be required to keep any such road as is mentioned in the last seven sections, worked by road hands, as in case of other public roads.

SEC. 29. All costs attending the proceedings provided for in relation to opening neighborhood roads shall be paid by the applicants for any such road, whether their application be granted or not, and may be collected as other costs in civil action.

SEC. 30. The commissioners court may discontinue any neighborhood road which has been established as a public highway in the same manner provided in this act for discontinuing other public roads.

SEC. 31. The owner or owners of the land whose lines have been or may be declared public highways, and also any person through whose land a third class road may run, shall have the right to erect a gate or gates across said road or roads when necessary; said gate or gates to be not less than ten feet wide.

SEC. 32. The amount of damages to be allowed to the owners of said lands for opening the lines of a neighborhood road, as provided in this

act, shall be assessed as provided for in the case of first, second, and third class roads in this act. Said damages to be paid by the applicant or applicants for such road.

SEC. 33. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties shall lay off the counties into convenient road precincts, and shall number each precinct, and in the order establishing the same shall specify as definitely as practicable the boundaries thereof.

SEC. 34. An overseer shall be appointed by said courts for each road precinct at the time of establishing the same, and at the first regular term of the courts in each year the said courts shall appoint an overseer for each road precinct in the county, and shall at the same time designate all the hands liable to work on public roads and apportion them to the several overseers.

SEC. 35. If from any cause the said courts should fail to perform the duties required of them by the preceding section, at its first regular term in each year, it shall be competent and legal for said court to perform said duties at any subsequent term, whether the same be a regular or called term.

SEC. 36. In case of death, removal, or other inability to act of any road overseer, it shall be the duty of the county judges, immediately upon information of the fact, to appoint an overseer to fill such vacancy, who shall be notified of his appointment, as in other cases.

SEC. 37. It shall be the duty of the clerks of said courts to make out copies of all orders appointing overseers of roads, in duplicate, and deliver the same to the sheriff of the county within ten days after such order shall have been made, endorsing on such copies the date of the order of appointment.

SEC. 38. All orders appointing overseers shall embrace the designation of hands liable to work under such overseer, as far as known, and shall specify the boundaries of such overseer's road precinct as laid off by the courts.

SEC. 39. The sheriff shall, within twenty days after the reception of the copies of any order appointing an overseer, deliver to or leave at the usual place of abode of such overseer one of such copies, and shall return the duplicate of such copy to the clerk of the county court, indorsing thereon the date and manner of service, and if not served, the cause of his failure to serve the same.

SEC. 40. The term of service of a road overseer shall be from the time of the service of the order of appointment until the first regular terms of the commissioners courts in the succeeding year.

SEC. 41. No person shall be compelled to serve as an overseer who is lawfully exempt from road duty, nor shall any one be compelled to serve as overseer more than one year in every three successive years.

SEC. 42. It shall be the duty of every person appointed overseer of a road, who is lawfully exempt from duty, to notify the clerks of the county courts of his nonacceptance within ten days after his being notified of his appointment.

SEC. 43. If any person appointed overseer of a road, who is lawfully exempt from road duty, shall notify the clerks of his nonacceptance, as provided for in the preceding section, the clerk shall forthwith report the

same to the county judge, who shall immediately appoint another overseer for said precinct.

SEC. 44. Should any person appointed overseer, and who is lawfully exempt from road duty, fail to notify the clerk of his nonacceptance within ten days after being notified of his appointment, it shall be considered an acceptance of the appointment, and he shall not be permitted thereafter to plead his exemption from road duty as a defense against any neglect or failure to perform any of the duties of such overseer.

SEC. 45. It shall be the duty of the clerks to insert on the copies of all orders of appointment of overseers issued by him, the duties required of overseers in regard to their nonacceptance of such appointment.

SEC. 46. The clerk of the county courts shall post at the court house, on the first day of each term of the district court held in his county, a list of the names, and the road precincts, of all the overseers of roads in the county.

SEC. 47. All male persons between twenty-one and forty-five years of age shall be liable, and it is hereby made their duty, to work on, repair, and clean out the public roads, under the provisions and regulations of this act, except ministers of the gospel actually engaged in the discharge of their ministerial duties, and invalids, and members of any company of voluntary guards organized under the provisions of the title "militia," who shall be exempt.

SEC. 48. No person shall be compelled to work on a road who has not been residing in the county in which he is summoned to work for the space of fifteen days immediately preceding such summons.

SEC. 49. Any person liable to road duty, and who has been summoned to do such duty, shall have the privilege to furnish an able bodied substitute to work in his place, which substitute shall be accepted by the overseer if he be capable of performing a reasonable amount of work; otherwise he shall not be accepted.

SEC. 50. Every person liable to work on roads, by paying to his road overseer, at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, shall be exempt from working for each day paid for, and also exempt from any penalties for failure to work for the time for which he has so paid.

SEC. 51. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, or such tool as may be desired and directed by the overseer; or, if he have no such tool as he is desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have.

SEC. 52. It shall be the duty of such road hand to perform his duties as such as required by law, and to do a reasonable amount of work, and in accordance with the directions of his overseer.

SEC. 53. No person shall be compelled to work on any public road or roads more than ten days in each year.

SEC. 54. Every insolvent poll tax payer, being a resident of the county, and not disqualified or excused by physical infirmity, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, may be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for

the county shall be required, on or before the second Monday in May of each year, to furnish to the several overseers of the counties, the names of all the defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each, for which ex officio service the collector shall be exempt from road duty five days; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax as herein provided, to report the same in his regular reports to the commissioners courts: *Provided*, that no penalty shall ever be imposed upon poll tax payers for refusal or failure to work upon public roads.

SEC. 55. This act shall be cumulative of all laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein such general laws shall apply; but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

SEC. 56. The vast amount of important business pending, and the fact that the roads of said counties are in a deplorable condition for the want of a more efficient road law, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and that this act take effect from and after its passage.

Approved April 19, A. D. 1893.

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

FORT WORTH—AMENDMENT TO CITY CHARTER.

CHAP. 10.—[H. B. No. 552].—An act to amend sections 2, 3, 4, 24, 30, 37, 55, 64, 78, 80, 81, and 82 of an act entitled "An act to incorporate the city of Fort Worth, and to grant a charter to said city," approved March 20, 1889, and by adding thereto sections 128a and 159b.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That sections 2, 3, 4, 24, 30, 37, 55, 64, 78, 80, 81, and 82 of the charter of the city of Fort Worth be and the same are hereby amended so as to be and hereafter read as follows, to-wit:

CITY LIMITS.

Section 2. That the limits of the said city of Fort Worth shall hereafter be and embrace the territory described in the following boundary lines, to-wit: Beginning at the northwest corner of the A. Gouenant survey, thence south to the northwest bank of the Clear Fork of Trinity River; thence up along the said bank of the Clear Fork to the north line of the J. M. C. Lynch survey; thence west 1450 feet; thence south to the said northwest bank of the Clear Fork of the Trinity River; thence up the northwest bank of said Clear Fork to the south line of the George Shields survey; thence east to the southeast corner of the George Shields survey; thence south along the west line of the S. G. Jennings, Wm. Welch, Peter Rouche, and J. N. Ellis surveys to where the south line of a street

on the south of blocks 25, 26, 27, and 28 of Fairmount addition intersects the said west line of the J. N. Ellis survey; thence east on said south line of said street and south line of Jessamine Street, and continuing east in a line with the south line of Jessamine Street to the east line of the M., K. & T. right of way; thence northwardly with the east line of said right of way to the south line of Elmwood Street; thence east along said south line of Elmwood Street to a point $\frac{3}{4}$ of a mile south of the southeast corner of the M. A. Jackson survey; thence north to the southeast corner of the M. A. Jackson survey; continuing north along the east line of the M. A. Jackson and the B. F. Crowley surveys to the northeast corner of the B. F. Crowley survey; thence west along the north line of the B. F. Crowley and R. Briggs surveys to a point $\frac{1}{4}$ of a mile east of the northwest corner of the R. Briggs survey; thence north 1200 feet; thence west to the west bank of the Trinity River; thence up along said west bank to the north line of the M. Baugh survey; thence west to the point of beginning.

WARDS.

Section 3. The wards of said city and their boundaries shall be and remain the same as exist at the time of the enactment of this law: *Provided*, that where extra territory is added by this act that heretofore has not been within the limits of said city of Fort Worth the same shall constitute a portion of the ward next adjoining the territory so added: *Provided further*, that the city council shall, by a vote of a majority of all aldermen elected, have the power from time to time to divide said city into as many wards as they may deem expedient, either enlarging or reducing the number of wards, and may prescribe and change the boundaries thereof; and to this end the city council, where it may become necessary, shall have the power, by a vote of two-thirds of all aldermen elected, to vacate the office of any alderman in said city by ordinance duly passed by said council; but no such division or change shall be made unless it be done at least six months preceding the general city election next ensuing, at which election the aldermen to be elected under such division or change shall be elected; and said wards so established shall contain as far as practicable an equal number of voters: *Provided*, that if in redistricting the city a smaller number of wards are established, and there shall be more aldermen in any one ward than it shall be entitled to, all the aldermen in said ward shall determine among themselves by lot which of them shall continue as aldermen of said ward.

MUNICIPAL GOVERNMENT DEFINED.

Section 4. The municipal government of said city shall consist of the city council, composed of the mayor and two aldermen from each ward. A majority of the aldermen shall constitute a quorum of the council for the transaction of business, except at called meetings or meetings for the imposition of taxes, when two-thirds of the aldermen shall be required. A two-thirds vote of all the aldermen elected shall be required in the levy of all taxes and issuance of bonds in said city.

VETO POWER OF MAYOR, ETC.

Section 24. All ordinances, resolutions, motions, orders, and contracts adopted by the city council shall, before they take effect, be placed in the office of the city secretary, and if the mayor approves thereof he shall sign the same, and such as he shall not sign he shall return to the city council with his objections thereto. Upon the return of any ordinance, resolution, motion, order of [or] contract by the mayor, the vote by which same was passed shall be reconsidered; and if after reconsideration two-thirds of the whole number of aldermen present agree to pass same, and enter their votes on the journal of the proceedings, it shall be in force from that time, or after publication, or time expressed for taking effect, as the case may be; and if the mayor shall neglect to approve or object to any proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect from that time, or after publication, or time expressed for taking effect, as the case may be.

CITY JUDGE'S SALARY.

Section 30. The city judge shall receive a salary not exceeding \$1200 per year, to be fixed by the city council, as hereinafter provided, payable in monthly installments.

POWERS AND DUTIES OF CITY ATTORNEY, ETC.

Section 37. The city attorney shall represent the city of Fort Worth in all cases now pending or hereafter to be brought in any court in favor of or against said city. He shall attend all meetings of the city council, and give his advice and counsel when called upon to do so. He shall give his opinion upon all legal questions concerning the city. He shall aid, when requested, in drawing and digesting all ordinances, resolutions, regulations, charters, and amended charters, and he shall render such other professional services as the council may require. He shall have the power to administer oaths in any matter pertaining to the duties of his office. He may appoint a deputy, to be paid by himself, subject to the approval of the city council, to represent him in the city court. He shall receive a salary of twenty-five hundred dollars per annum from and after the passage of this act, payable in monthly installments. The council may, when it deems it necessary, employ counsel to assist the city attorney in any matter or suit affecting the city, and may pay him such compensation as may be agreed upon. The city attorney shall give such bond as the city council may require.

MAY PUNISH VAGRANTS, ETC.

Section 64. To regulate, restrain, and punish vagrants, mendicants, street beggars, and prostitutes.

MAY CONTROL, ETC., THE LAYING OF RAILROAD TRACKS, ETC.

Section 80. To direct and control the laying and construction of railroad tracks, turnouts, and switches, or prohibit the same, in the streets, avenues, and alleys, unless the same shall be authorized by law, and

cause the same to be built, and repaired or changed, in such manner as may be deemed fit for the safety and convenience of the city and public; to require that railroad tracks, turnouts, and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues, and alleys, and that sufficient space be left on either side of said tracks for safe and convenient passage of teams, carriages, and other vehicles and persons; to require railroad companies to keep in repair the streets, avenues, or alleys through which their tracks may run, and, if ordered by the city council, to construct and keep in repair suitable crossings at the intersection of streets, avenues, alleys, ditches, sewers, and culverts, when the city council shall deem it necessary; and to regulate or prohibit the blowing of locomotive whistles within the city; and regulate the speed of locomotive engines in said city: *Provided*, that the provisions of this article shall apply to steam railroads, and not to city street or horse railroads.

MAY REGULATE CONSTRUCTION, REPAIRS, AND OPERATION OF STREET
RAILROADS.

Section 81. The city council shall have power to compel horse railroads, or other city street railroad companies, to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed so as not to exceed seven miles per hour, and to compel said city railroads to supply ample accommodations for the safe and convenient travel of the people on the streets where their tracks may run, and to compel said city railroads to furnish safe, comfortable, and convenient cars for the transportation of passengers; to declare their franchises forfeited upon the noncompliance by said companies with the ordinances of the city, or the conditions or agreements [under] which such franchises were granted, and to forthwith remove or cause to be removed their tracks from any of the streets of the city; to compel street railway companies to permit other companies to use their tracks for the purpose of traffic thereon, for a distance not exceeding three hundred feet, when in the discretion of the city council it may be deemed necessary to the use and convenience of the city and the traveling public: *Provided*, that the provisions as to use of tracks shall apply to tracks now existing around the court house square for their entire length or width. The city council may enforce these regulations by proper ordinances, with suitable penalties for any violation of said ordinances.

Section 82. The city council shall have the exclusive control and regulation of all streets, alleys, and public grounds, and power to abate and remove encroachment in a summary manner; to permit, prevent, and regulate the laying of gas and water mains, and the erection of telegraph, telephone, and electric light poles; to impose such terms as they may deem proper for the use of streets and sidewalks, and to demand and collect for the use of same such compensation as to the city council may seem proper.

SEC. 2. That the charter of the city of Fort Worth be and the same is hereby amended by adding thereto sections 128a and 159b.

CONTROL OF STREAMS, ETC.

Section 128a. The city council shall have authority to control and regulate the use of all streams of water within three miles of the limits of said city.

DEMAND AS CONDITION PRECEDENT TO SUITS AGAINST THE CITY.

Section 159b. Before the city of Fort Worth shall be liable for any damage of any kind, such person, or some one in his behalf, shall give the city council notice, in writing, of such injury within thirty days after the same shall have been received, stating in such notice when and how the injury occurred, and the extent thereof.

SEC. 3. That all laws in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 4. Whereas it is of great importance that the city of Fort Worth shall have the power to secure better government of said city, an emergency exist requiring the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its third reading and final passage; therefore an emergency and a great public necessity exists that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

[NOTE.—The foregoing act takes effect May 11, 1893.]

ROADS—GUADALUPE COUNTY.

CHAP. 11.—[H. B. No. 657.] An act to create a more efficient road system in the county of Guadalupe; and auxiliary thereto, to provide for the appointment of road overseers, to define the powers and jurisdiction of the commissioners court with regard thereto, to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county, and to provide adequate penalties for the violation of the provisions of this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the commissioners court of Guadalupe county may appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

SEC. 2. The overseers so appointed shall perform all the duties required of overseers, under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not [to] exceed two dollars per day for the time actually engaged.

SEC. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faithfully discharge all of the duties incumbent upon him as such overseer, that he will promptly make all reports required of him by this act, or by the commissioners court, and that he will correctly disburse and account

for all funds that may come into his hands according to law and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

SEC. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer, and in case of vacancy from any cause, may fill the same for the unexpired term.

SEC. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk, and he shall be responsible for all such tools, teams, implements, and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies, if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

SEC. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides; and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct, but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done, and may require the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

SEC. 6. The commissioners court shall require all able-bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as may be prescribed, and each convict so employed shall receive credit, first, upon the fine, and then upon the cost, of fifty cents per day for each day he may labor: *Provided*, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

SEC. 7. The commissioners court may, at any regular term, allow the officers and witnesses in a convict case, where the convict is worked upon the roads, such portions of their lawful costs as it may determine, not to exceed, in any case, the following: County judges, \$2.50; county attorneys, \$5, including commissions; county clerks and justices of the peace, \$2; sheriffs and constables, \$2.50; witnesses, twenty-five per cent of their legal fees; which allowance shall be paid out of the road and bridge fund, upon the warrant of the county judge, when said fine and cost shall have been worked out by the convicts, as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict, in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

SEC. 8. The overseers may contract with any person subject to road

duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: *Provided*, he shall not allow more than \$2 per day for any wagon and team, nor more than \$3 per day for wagon and team and driver.

SEC. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted, as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up, and in good order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all duties as supervisor heretofore devolving upon the county commissioners, and the county commissioners of said county are hereby delivered from the duties prescribed by article 4390a of the Revised Civil Statutes.

SEC. 10. Each able-bodied male person, between the ages of twenty-one and forty-five years, resident of the county, except such persons as are exempt from road duty under the general laws of the State, shall be liable to labor on the public roads: *Provided*, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.

2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time shall be discharged from all liability for the entire year, to end on December 31 of each year.

3. By producing to the overseer the certificate of a reputable practicing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.

4. By substituting wagons and teams, suitable and satisfactory to the road overseer, as provided in section 8 of this act.

SEC. 11. Every insolvent poll taxpayer, being resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second _____ in February of every year, to furnish to the several overseers of the county the names of all the defaulting poll taxpayers, together with the amount of county poll tax due and unpaid by each, for which ex officio services the collector shall be exempt from road duty; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax, as herein provided, to report the same back to collector, who shall credit the party on the poll tax roll, and report the same in his regular report to the commissioners court: *Provided*, that no fine or penalties shall be recovered of insolvent poll taxpayers for failure to work out their poll tax under the provisions of this act.

SEC. 12. Each road overseer shall make his report under oath to the commissioners court, every six months, giving an itemized statement of all money belonging to the road fund, which he has received, from whom received, and for what, and what disposition he made of the same; the

condition of all the roads, bridges, culverts, and drains; the number and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require, and may accompany said report with such suggestions as may seem to him pertinent, in regard to the public roads and the duties of the office.

SEC. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be punished by a fine of not less than ten nor more than one hundred dollars, such fine, when collected, to go into the road and bridge fund.

SEC. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road, or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damages to be paid, the county may proceed to condemn the same, in the same manner that a railway company can condemn land for right of way, and the same proceedings may be had and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond either for cost or on appeal.

SEC. 15. This act shall be cumulative of all general laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws, this act shall govern, and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

SEC. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

Approved April 28, A. D. 1893.

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

ROADS—NACOGDOCHES COUNTY.

CHAP. 12.—[H. B. No. 647.] An act to authorize the commissioners court of Nacogdoches county to lay out and condemn land for right of way, and to establish and maintain a first class road around Orton's Hill, in Nacogdoches county.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the commissioners court of Nacogdoches county shall have the power to lay out and condemn land for right of way, and establish and maintain a first class public road, leading from the corporate limits of the town of

Nacogdoches, in said county, around a steep hill, known as Orton's Hill, in the direction of the town of San Augustine, in San Augustine county, and to intersect the main public road leading from said town of Nacogdoches to the town of San Augustine at a suitable point, after passing around said hill.

SEC. 2. That said commissioners court shall proceed to lay out said road, and condemn sufficient land for a right of way over same, and to establish and maintain said road in the manner prescribed under the general road law of this State.

SEC. 3. Whereas, the near approach of the close of the session of the Legislature, and the great number of bills now pending make it doubtful whether this bill will be reached, and that there is now no adequate law authorizing said court to lay out and condemn land for right of way to establish and maintain said road, therefore an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect April 29, 1893.]

ROADS—CAMERON, HARRIS, FAYETTE, DALLAS, BRAZOS, CORYELL, BEXAR, ROCKWALL, AND ELLIS COUNTIES.

CHAP. 13.—[H. B. No. 632.] An act to authorize and create a more efficient system of public roads and bridges for Cameron, Harris, Fayette, Dallas, Brazos, Coryell, Bexar, Rockwall, and Ellis counties, for the issuance of bonds by said counties for the purpose of constructing permanent public roads, to authorize the investment of the permanent school fund of the State and of said counties in such bonds, to provide for and limit the expenditure of the moneys arising from the sale of such bonds, and to prescribe and define the powers and duties of the commissioners court in reference thereto.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the county commissioners courts of Cameron, Harris, Fayette, Dallas, Rockwall, Brazos, Coryell, Bexar, and Ellis counties, State of Texas, may, as hereinafter provided, build or construct, or cause to be built or constructed, in said counties, lasting or permanent county roads and bridges, of some permanent or durable material, to be selected and agreed upon by said commissioners courts, and may also construct drains or ditches to carry off the waters from such road or roads, and from lands adjacent thereto, whenever and wherever same can be done without conflicting with the rights of private property owners, and may take and condemn any land or lands necessary for the purpose of constructing roads or drains under its general powers of eminent domain.

SEC. 2. Whenever the commissioners courts of said counties shall deem it necessary or expedient to build or construct any public roads and bridges

of the character herein provided for, they shall pass a resolution, which may be done at any regular or special meeting of said courts, setting forth that it is the sense of the said commissioners court that public roads and bridges of a lasting or permanent nature should be constructed or built in said county, and that the county should issue its bonds to raise money for that purpose. Said resolution shall be submitted to a vote of the property owners of said counties at any regular or special election, which may be ordered by the commissioners court for that purpose; and if at such election, a majority of the votes cast shall be for said resolution, the same shall be adopted, but if a majority of votes cast at such election shall be against said resolution it shall be rejected. Such election shall be governed in all respects by the laws governing elections in this State, and the returns shall be made and canvassed in the same manner, and result declared by proclamation of the county judge, which proclamation shall be posted in at least three public places in said counties, and at the option of the commissioners court published in some newspaper in said counties.

SEC. 3. No person shall be permitted to vote at any election as provided for in section 2 of this article, unless he is a property owner and taxpayer in said counties of Harris, Fayette, Cameron, Dallas, Rockwall, Brazos, Coryell, Bexar, or Ellis, and unless he is otherwise a qualified voter of said county. Those desiring to vote for the resolution shall have written or printed on their tickets the words, "For the resolution to issue bonds to build permanent county roads and bridges," and those desiring to vote against the resolution shall have written or printed on their tickets the words, "Against the resolution to issue bonds to build permanent county roads and bridges." Such tickets shall be written or printed on plain white paper with black ink, and shall contain no distinguishing mark or device, except the words above set out, and if printed, shall be in type of uniform size and face.

SEC. 4. If, at the election herein provided for, a majority of the qualified voters at such election shall vote in favor of the resolution provided for in section 2 of the act, and after the commissioners court has canvassed the said vote and declared the result, and after the proclamation of the county judge declaring said result has been posted for at least thirty days, it shall be the duty of the county commissioners court, under the supervision and direction of the Comptroller of this State, to prepare and execute the bonds of the county for such sums as may be deemed advisable by said commissioners courts, said bonds to bear not exceeding five per cent interest, payable annually, and which shall be redeemable in not less than ten years and not more than forty years from the date thereof, the maturity to be expressed on the face of the bonds, and shall have the same registered or enrolled, as in the case of other county bonds, and the same shall not be sold or negotiated at less than their face or par value: *Provided*, that in no case shall said county issue bonds under this act for a greater sum or amount than a levy of fifteen cents on the hundred dollars property valuation of such county will yield sufficient revenue to pay the interest as it accrues, and will at the same time create a sinking fund sufficient to pay the principal at maturity.

SEC. 5. When the bonds of the county are issued and sold under the provisions of this act, it shall be the duty of the county commissioners court of said county to levy an annual ad valorem tax on all property of the county, which tax, when collected, shall be used only for the pur-

pose of paying the interest on the county road and bridge bonds, and create a sinking fund to pay the principal of same; and after the adoption of the resolution as herein provided for, it shall be unlawful for the county commissioners court to transfer any funds from the road and bridge fund to any other fund of said county, or to divert the funds arising from the sale of such bonds, or any funds that may be derived from the road and bridge tax of said county, to any other purpose than the construction and maintenance of county roads and bridges. Should the commissioners court of said counties divert any funds contrary to the provisions of this act, they and each member of said court so acting or voting shall be deemed guilty of malfeasance in office, and on conviction shall be punished by a fine of two hundred dollars, and may be removed from office.

SEC. 6. Whenever there shall be or remain in the treasury of this State any moneys to the credit of the permanent school fund, uninvested, the State Board of Education is authorized and empowered to lend the same to said county, when it shall have complied with the foregoing provisions of this act, by purchasing at par value the permanent road and bridge bonds of said county, when satisfactory evidence is presented to said board that all the provisions of this act have been complied with. And the State Board of Education shall have the preference to purchase said permanent road and bridge bonds, when there is sufficient permanent school funds in the treasury, and they are satisfied that all requirements of law in reference to the issuing of said bonds have been complied with. Should there not be sufficient money in the treasury to the credit of the permanent school funds to purchase the whole issue of such county road and bridge bonds, then the State Board of Education may purchase said bonds to the extent of the funds on hand, or the county commissioners court may, at their option, place said issue of bonds elsewhere, as to them may seem best for the interest of the county; and in like manner, the county permanent school fund may be invested in such county bonds, and whenever said county shall have on hand permanent school funds uninvested, said county shall have the preference to invest said funds in the road and bridge bonds of said county.

SEC. 7. The moneys arising from the sale of the bonds herein provided for shall not be used for any other purpose than the construction of durable and permanent county roads and bridges, and the purchase of material therefor, and any county commissioners court, or any county commissioner, or any other person, who shall misapply or convert same or any part thereof to any other purpose than the one named, shall be deemed guilty of malfeasance in office, and on conviction shall be punished as hereinbefore provided for that offense.

SEC. 8. All roads and bridges built under the provisions of this act shall be laid out and constructed under the supervision of the county commissioners court, and a competent civil engineer, the county surveyor, or other competent person, to be employed by the county for that purpose.

SEC. 9. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 10. The great importance to the counties of Cameron, Harris, Fayette, Dallas, Rockwall, Coryell, Bexar, and Ellis of the passage of this act, and the near approach of the close of the present session of the

Legislature, and the crowded condition of the calendar, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

ROADS—COLLIN, GRAYSON, WILLIAMSON, LAMAR, AND BELL COUNTIES.

CHAP. 14.—[H. B. No. 351.] An act to create a more efficient road system for Collin, Grayson, Williamson, Lamar, and Bell counties, in the State of Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of deputy road commissioners, and defining the powers and duties of the commissioners court of said counties, and to provide for the manner of training hedges along any public road, and fixing a penalty for the violation of this act, and to repeal all laws in conflict with this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That each member of the commissioners court of Collin, Grayson, Williamson, Lamar, and Bell counties shall be ex officio road commissioners of their respective districts, and under the direction of the commissioners court shall have charge of all the teams, tools, and machinery belonging to the county, and placed in their hands by said court; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession: *Provided*, that with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioners shall be entitled to the same compensation that is allowed county commissioners for the same service: *Provided*, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

SEC. 2. The commissioners court of said counties shall have full power

and authority, and it shall be their duty, to adopt such system for working, laying out, draining, and repairing the public roads in said counties as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools, and machinery as may be necessary for the workings of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, or the county judge, may advertise, in such manner as said court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county, for the use of the road and bridge fund, with good, sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract, but said court shall have the right to reject any and all bids. At the time of making any such contract the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

SEC. 3. The commissioners court of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads, under such regulations as it may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. The commissioners court may, at a regular term, allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convicts as it may deem best: *Provided*, that it shall not allow to any officer an amount greater than the following: County judge, \$3.00; county attorney, \$5.00, including commissions; county clerks and justices of the peace, \$1.70; sheriffs or constables, \$2.00; which amount shall be paid to the officers out of the road and bridge fund, on the warrant of the county judge, when said fine and costs shall have been worked out as provided in this section: *Provided*, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior: *Provided*, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane keeping of the convicts.

SEC. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools, and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners court, taking receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any team, tools, or machinery belonging to said county, shall be liable for any damages that may occur to the same while in his possession. It shall be the duty

of the road overseer, when he has finished work on his road, to return to said commissioner all teams, tools, and machinery received from him, and to take up the receipt given therefor.

SEC. 5. It shall be the duty of the county commissioner, when acting as road commissioner, to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which directions shall be observed and obeyed by all road overseers of his district.

SEC. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time: *And provided*, that all road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand, when called out, shall perform a good day's work; and if any hand, when so called out, shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation, not to exceed one dollar and one-half per day, for the time so served.

SEC. 7. Any citizen of Collin, Grayson, Lamar, Williamson, and Bell counties, liable for road duty, who shall, on or before the first day of January of any year, pay to the county treasurer the sum of \$3, shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district from which it is received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

SEC. 8. Whenever it shall be necessary to occupy any land for the purpose of opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

SEC. 9. Every owner of a farm or other lands, upon which a hedge of any description grows on or near the public road, shall be required to keep the same trimmed so that the height of the same shall not exceed eight feet above the level of the ground. Any such owner who shall fail or neglect to so trim such hedge, shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case [if] such owner shall, after receiving such notice fail or refuse to so trim

such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed \$20 per week from and after the time that he received such notice; such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid out of the road and bridge fund of the county.

SEC. 10. Each county commissioner, when acting as road commissioner, and performing the duties imposed upon him by law, or by the commissioners court, shall be entitled to two dollars per day for the services actually performed: *Provided*, that he shall not receive more than forty-five dollars (\$45.00) per quarter, when the road and bridge tax has not been levied as provided by law, under the amendment of 1889, as adopted in 1890, to the Constitution of the State of Texas. And when said tax shall have been levied he may receive an amount not to exceed ninety (\$90) per quarter, which amount shall be paid out of the road and bridge fund, when the account shall have been approved by the commissioners court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due, and unpaid, and specifying the number of days work actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of a county commissioner.

SEC. 11. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in a case of conflict this act shall control as to the counties of Collin, Grayson, Williamson, Lamar, and Bell; and an act passed at the regular session of the Twenty-second Legislature, approved April 4, 1891, providing a special road law for Collin county, is hereby repealed.

SEC. 12. The fact that there is now no sufficient general road law in force in this State creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. GEO. W. SMITH, Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

C. C. DUPREE—RELIEF OF.

CHAP. 15.—[S. B. No. 104.] An act for the relief of C. C. Dupree, sheriff and collector of taxes of Franklin county, Texas.

Whereas, C. C. Dupree, as collector of taxes for Franklin county, Texas, had on the 17th day of November, 1887, collected for the State the sum of three hundred dollars, taxes due for the year 1887, and had deposited said sum of money for safe keeping in an iron safe provided by the county commissioners court for the use of the treasurer and collector of taxes for said county, in which to keep the funds of the county, which safe was, on said 17th day of November, burglarized, and said sum of three hundred dollars stolen therefrom; and

Whereas, said C. C. Dupree has paid to the State of Texas said sum of three hundred dollars, as appears by reference to his account with the Comptroller of the State for the year 1887; therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the Comptroller of the State is hereby authorized and directed to allow the said C. C. Dupree a credit of three hundred dollars upon his account for taxes collected by him for the State for the year 1892 as sheriff and collector of taxes for said Franklin county, Texas.

SEC. 2. The fact that collectors of taxes are soon required to make their report to the Comptroller of taxes collected by them for the year 1892, creates an emergency, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. CURL, Acting Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

SARAH A. NICHOLS—GRANTING PERMISSION TO SUE THE STATE.

CHAP. 16.—[H. B. No. 411.] An act granting permission to Sarah A. Nichols to bring suit against the State of Texas in the district court of Travis county to ascertain the amount, if any, the State is indebted to said Sarah A. Nichols, surviving widow of Quilla J. Nichols, on account of the construction of the General Land Office building of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Sarah A. Nichols be and is hereby granted permission to bring suit against the State of Texas in the district court of Travis county, to ascertain and fix the amount, if any, the State is indebted to said Sarah A. Nichols, surviving widow of Quilla J. Nichols, on account of the construction of the General Land Office building of Texas: *Provided*, that she shall give the necessary cost bond as in other civil suits: *And provided further*, that the amount which said Sarah A. Nichols may be entitled to recover shall not exceed seven thousand dollars, and such sum within said amount as she may recover shall not bear nor include interest.

SEC. 2. Either party shall have the right of appeal, and any judgment finally established against the State in such suit shall be a liquidated debt which shall be paid by the State.

SEC. 3. The advanced age and infirm condition of the said Sarah A. Nichols makes it important that whatever may be done by way of giving her an opportunity to establish her claim against the State, shall be done at the earliest possible day; wherefore there is an imperative public necessity for the suspension of the rule requiring bills to be read on three several days, and an emergency requiring that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of May, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. CURL, Acting Secretary of State.]

[NOTE.—The foregoing act takes effect ninety days after adjournment.]

THE STATE OF TEXAS,
DEPARTMENT OF STATE.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing special laws, passed at the regular session of the Twenty-third Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify, that the Twenty-third Legislature convened in the city of Austin, January 10th, A. D. 1893, and adjourned May 9th, A. D. 1893.

In testimony whereof, I have subscribed my name, and have hereto affixed the seal of the State of Texas, in the city of Austin,
[L. s.] July 31st, A. D. 1893.

GEO. W. SMITH,
Secretary of State.

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